

SCHARF EXHIBIT G

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE SOUTHERN DISTRICT OF NEW YORK
Case No. 1:22-CV-06649-GHW

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4 DAOL REXMARK UNION STATION LLC and
5 KOOKMIN BANK CO., LTD., in its capacity as
6 trustee of KTB CRE DEBT FUND NO. 8, a
Korean Investment Trust, by its agent in
7 Korea DAOL FUND MANAGEMENT CO. and by its
agent in United States REXMARK HOLDINGS
8 LLC d/b/a REXMARK,

Plaintiffs,

9 - against -

10 UNION STATION SOLE MEMBER, LLC,

11 Defendant.

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12
13 September 21, 2023
10:03 a.m.

14
15
16 VIDEOTAPED DEPOSITION of MICHAEL
17 REBIBO, held at the offices of Kasowitz
18 Benson & Torres LLP, located at 1633
19 Broadway, New York, New York 10019, before
20 Anthony Giarro, a Registered Professional
21 Reporter, a Certified Realtime Reporter and
22 a Notary Public of the State of New York.
23
24
25

A P P E A R A N C E S :

MORRISON COHEN LLP

Attorneys for Plaintiffs

909 Third Avenue

New York, New York 10022

BY: Y. DAVID SCHARF, ESQ.

MAHNOOR MISBAH, ESQ.

KASOWITZ BENSON TORRES LLP

Attorneys for Defendant

1633 Broadway

New York, New York 10019

BY: DAVID J. MARK, ESQ.

ANDREW W. BRELAND, ESQ.

ALSO PRESENT:

PHIL GLAUBERSON, Videographer

S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED,
by and among counsel for the respective
parties hereto, that the filing, sealing
and certification of the within deposition
shall be and the same are hereby waived;

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to form of
the question, shall be reserved to the time
of the trial;

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be signed
before any Notary Public with the same
force and effect as if signed and sworn to
before the Court.

* * *

1
2 THE VIDEOGRAPHER: Good
3 morning. We are going on the record
4 at 10:03 on 9/21/2023. Please note
5 that the microphones are sensitive
6 and may pick up whispering and
7 private conversations. Please mute
8 your phones at this time and place
9 them away from the microphones as
10 they can interfere with the audio.
11 Audio and video recording will
12 continue to take place unless all
13 parties agree to go off the record.

14 This is Media Unit 1 of the
15 video-recorded deposition of Michael
16 Rebibo in the matter of Daol Rexmark
17 Union Station, LLC., et al. versus
18 Union Station Sole Member, LLC filed
19 in the United States District Court
20 for the Southern District of New
21 York, 1:22-CV-06649-GHW. The
22 location of this deposition is
23 Kasowitz Benson Torres LLP, 1633
24 Broadway, New York, New York.

25 My name is Phil Glauberson

1
2 representing Veritext. And I am the
3 videographer. The court reporter is
4 Anthony Giarro from Veritext.

5 I am not authorized to
6 administer an oath, I am not related
7 to any party in this action, nor am I
8 financially interested in the
9 outcome.

10 If there are any objections
11 to proceeding, please state them at
12 the time of your appearance.

13 Counsel will now state their
14 appearances and affiliations for the
15 record, beginning with the noticing
16 attorney.

17 MR. MARK: David Mark,
18 Kasowitz Benson Torres, for the
19 defendant.

20 MR. BRELAND: Andrew
21 Breland, also Kasowitz Benson Torres,
22 for the defendant.

23 MR. SCHARF: David Scharf
24 and Mahnoor Misbah for the
25 plaintiffs.

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MICHAEL REBIBO

THE VIDEOGRAPHER: Will the
court reporter please swear in the
witness.

M I C H A E L R E B I B O, after having
first been duly sworn by a Notary Public of
the State of New York, was examined and
testified as follows:

EXAMINATION BY

MR. MARK:

Q Good morning. We've been
briefly introduced.

Can you please state your
name and address for the record?

A Michael Rebibo. My home
address?

Q Business address would be
fine.

A My business address is 295
Madison Avenue, Suite 1200, New York, New
York 10017.

Q As I'm sure you know by now,
I'll be asking you questions today.
Please listen carefully. But if you
don't understand any of my questions,

MICHAEL REBIBO

please ask me to clarify, and I'll be happy to do so.

Also, as I think was briefly mentioned before, if at any point you'd like to take a break, just let us know. If we're in the middle of a question and answer, I'd like to finish the question and let you answer, and then you'll be able to take a break.

A Got it.

Q Are you currently employed?

A Yes.

Q By whom?

A Rexmark Holdings LLC.

Q What is your position?

A I'm the managing principal.

Q How long have you been with Rexmark?

A About 12 years.

Q Can you briefly describe your education, post high school, and your prior employments before you joined Rexmark?

A Prior to founding Rexmark, I

MICHAEL REBIBO

was employed by a large privately-owned real estate company based here in New York called the Moinian Group. I was there for a number of years, from 2006, I believe, until 2011 as a vice president of asset management for a company that has about 20 million square feet of various real estate properties globally. And prior to that, I was in Yeshiva University for undergraduate school.

Q Do you have a degree from Yeshiva University?

A I do not have a completed degree from Yeshiva University.

Q How much time did you spend there?

A I spent four and a half years there. And in order to get a degree, you need to do something post finishing. So I got the full education. But I did not complete a post school assignment.

Q Any other education, post graduate?

1 MICHAEL REBIBO

2 A Beyond high school?

3 Q Beyond high school.

4 A No.

5 Q Now, do you understand that
6 you're appearing here pursuant to two
7 notices?

8 A Can you clarify the
9 question?

10 Q Sure.

11 Do you understand that
12 you're individually noticed for a
13 deposition, and in addition, you're
14 appearing here as a corporate
15 representative?

16 A Yes.

17 Q And specifically, you're
18 appearing as the corporate representative
19 of Kookmin Bank. You understand that?

20 A Yes.

21 Q Now, let me just show you
22 what we'll mark as Exhibit 1 to your
23 deposition.

24 (The above-referred-to
25 document was marked as Defendant's

1 MICHAEL REBIBO

2 Exhibit 1 for identification, as of
3 this date.)

4 Q I'm handing you Defendant's
5 Exhibit 1. The question very simply is
6 whether you're familiar with this
7 document.

8 A Yes. I'm familiar with the
9 document.

10 Q Now, this is a Notice of
11 Deposition directed to Plaintiff Kookmin
12 Bank. And it has at the end of it, a
13 list of deposition topics. Do you see
14 that?

15 A Yes.

16 Q Have you reviewed these
17 deposition topics?

18 A Yes.

19 Q Are you able to testify
20 about each of these deposition topics?

21 A Yes.

22 Q Now, what did you do to
23 prepare for the deposition today?

24 A I reviewed the deposition
25 topics. I reviewed the -- some of the

MICHAEL REBIBO

materials in the discovery that were provided by my attorneys. I reviewed some of the declarations that were provided by your client, as well as myself. And I refreshed my memory on some of the prior circumstances which took place over the last few years.

Q How did you go about refreshing your memory?

A I reviewed various notices, e-mails, text messages.

Q To the best of your knowledge, have the documents you reviewed all been produced in this case?

A I'm sorry?

Q To the best of your knowledge, have all the documents you've reviewed been produced in this case?

A To the best -- yes. By my side, yes. By your client's side, I don't know.

Q The documents you reviewed, were they documents created by Rexmark?

A They were produced by

1 MICHAEL REBIBO

2 Rexmark, yes.

3 Q And they were produced to
4 the defendants in this case?

5 A Yes.

6 Q In addition to reviewing
7 documents, did you speak to anybody?

8 A I spoke to my attorneys.

9 Q And who are those?

10 A The attorneys at Morrison
11 Cohen: Mr. Scharf, Ms. Misbah, Ms. Will,
12 Ms. James. There's a lot of attorneys in
13 this case. I can't recall all their
14 names.

15 Q Besides speaking to your
16 attorneys, did you speak to anybody else
17 to help prepare for the deposition?

18 A No.

19 Q Have you ever been
20 previously deposed prior to today?

21 A Deposed?

22 Q Yes. Have your deposition
23 taken.

24 A No. This is the first.

25 Q Good for you.

1 MICHAEL REBIBO

2 MR. MARK: Off the record.

3 (A discussion was held off
4 the record.)

5 MR. MARK: Let's go back on
6 the record.

7 Q So what is the business of
8 Rexmark?

9 A Rexmark is an investment
10 manager that invests in commercial real
11 estate throughout the United States and
12 Europe, throughout all asset classes,
13 office buildings, apartment buildings,
14 hospitality, industrial, infrastructure,
15 retail, medical, education. We invest
16 primarily institutional capital and
17 throughout major gateway cities in the
18 United States and Europe. And in certain
19 cases, we are the lender. In certain
20 cases, we're the owner and own and
21 operate various real estate.

22 Q Does Rexmark invest in any
23 of its own capital?

24 A Yes, we do.

25 Q Let's go through some of the

1 MICHAEL REBIBO

2 other entities that are involved here.

3 What is the relationship of
4 Rexmark to Kookmin Bank?

5 A Kookmin Bank is a trustee on
6 behalf of an investment vehicle in South
7 Korea. Rexmark is the agent on behalf
8 of the trustee, as well as on behalf of
9 the investment vehicle in the United
10 States. Rexmark originated this loan.
11 And Rexmark is a member. And I believe
12 I'm one of the members personally of Daol
13 Rexmark Union Station LLC. So we're
14 essentially the party in charge of the
15 investment in the United States.

16 Q What is the name of the
17 investment vehicle that you referred to?

18 A I believe it's KTB CRE Debt
19 Fund No. 8.

20 Q Now, is KTB CRE Debt Fund
21 No. 8 a legal entity under the laws of
22 South Korea?

23 A Yes. It's a single-purpose
24 vehicle, formed in South Korea, that
25 originated the investment back in 2018.

1 MICHAEL REBIBO

2 Q Does it have shareholders or
3 members? How is it organized?

4 A It's made up of three
5 separate institutions that funded the
6 investment. And there are designees such
7 as Kookmin. Kookmin does not actually
8 have a financial investment in the
9 transaction.

10 But because of rules and
11 regulations and compliance, you have a
12 trustee, as well as a Korean servicer,
13 asset manager, which is KTB/Daol, that
14 administers the loan or the investment,
15 administers the investment in South
16 Korea.

17 Q You said there are three
18 institutions?

19 A That invested in the
20 vehicle.

21 Q What are the names of those
22 institutions?

23 A Kyobo Life Insurance, Hanhwa
24 and Hana Life Insurance. But these
25 are -- just to be clear, it's a blind

MICHAEL REBIBO

trust. So these are completely passive investors. They don't have any active role. Once the vehicle is formed, the investors have no active role in the management or administration or decision making of the investment.

Q Who does have the management or decision making role?

A Myself, as well as my counterpart, the servicer in South Korea, which is KTB, or what they're now called, Daol.

Q So what is -- what is Daol Fund Management Co.?

A Daol Fund is the service manager in South Korea.

Q Is it related to the Daol Financial Group?

A Yes.

Q What is the relationship?

A It's a subsidiary of Daol Financial Group. Daol Financial Group is a conglomerate that's made up of different sectors, venture capital,

1 MICHAEL REBIBO

2 investment banking, asset management in
3 this case. It's a large institution.

4 Q Was Daol Financial Group
5 previously called KTB Financial Group?

6 A Correct.

7 Q When did that name change
8 take place?

9 A I honestly don't know; in
10 the last couple of years.

11 Q What is Rexmark's
12 relationship to the Daol Financial Group?

13 A Rexmark co-originated the
14 loan back in 2018, along with KTB Asset
15 Management.

16 Q Now, the other plaintiff in
17 this case is Daol Rexmark Union Station
18 LLC.

19 Who owns that entity?

20 A That entity is a sub-entity
21 of the KTB CRE Debt Fund entity. That's
22 an entity formed in the United States. I
23 believe I'm one of the members of that
24 entity. That entity was formed post
25 foreclosure or right around the time of

1 MICHAEL REBIBO

2 the foreclosure. 2022, I believe. But
3 it's a subsidiary of -- it's an
4 affiliate, I guess you would call it, of
5 the KTB CRE Debt Fund No. 8.

6 Q Who are the other members?

7 A I believe it's myself and
8 one other member from Daol.

9 Q What's the name of that
10 member?

11 A Jaesang Eum.

12 Q Can you describe what
13 Mr. Eum's role is in this matter?

14 A His role is he's my
15 counterpart in South Korea. He
16 administers the investment from the South
17 Korean side. So he oversees compliance,
18 facilitates approvals, if necessary, and
19 since I don't speak South Korean,
20 communicates to various parties in South
21 Korea in their native language.

22 Q In one of your prior
23 answers, you mentioned a foreclosure that
24 took place in 2022.

25 For the sake of the record,

1 MICHAEL REBIBO

2 can you just clarify what foreclosure
3 you're referring to?

4 A The foreclosure under the
5 mezzanine loan in June of 2022 by -- I
6 guess I would call it our party versus
7 your client.

8 Q The foreclosure by the
9 mezzanine lender?

10 A Yes.

11 Q Of its collateral it's
12 leaned heavily on?

13 A Yes.

14 Q And, again, just to further
15 clarify, prior to the foreclosure,
16 Kookmin Bank as trustee was the lender
17 under a \$100 million loan to Union
18 Station Sole Member; is that correct?

19 A That's correct. At the time
20 of the foreclosure, we also held the
21 senior loan.

22 Q But you did not foreclosure
23 the senior loan?

24 A No.

25 Q Now, is it okay if I refer

1 MICHAEL REBIBO

2 to Union Station Sole Member as USSM or
3 something similar to that, so that we
4 don't have to repeat that every time?

5 A Yes.

6 Q And it's okay if I refer to
7 the loan that we're talking about as a
8 mezzanine loan?

9 A Yes.

10 Q Now, again, just so the
11 record is clear, USSM held a membership
12 interest in Union Station Investco LLC;
13 is that correct?

14 A That's correct.

15 Q Or USI for short?

16 A Yes.

17 Q USI held a leasehold
18 interest in Union Station, Washington,
19 D.C.?

20 A Yes. That's correct.

21 Q That leasehold interest was
22 the subject of a separate mortgage;
23 correct?

24 A That's correct.

25 Q And prior to your firm's

1 MICHAEL REBIBO

2 acquisition of that mortgage, it was held
3 by a CMBS trust; correct?

4 A That's correct.

5 Q Wells Fargo was the servicer
6 of that mortgage?

7 A At the time that I acquired
8 the mortgage in January of 2022, the
9 special servicer was Green Loan Services,
10 an affiliate of SL Green. And the master
11 servicer I believe may have been Wells
12 Fargo. But the loan was not in master
13 servicing at that time. So Wells Fargo
14 was previously the special servicer prior
15 to -- I believe it was November, October
16 of 2021.

17 MR. MARK: So let's mark as
18 Exhibit 2, an e-mail and an
19 attachment, both dated April 12th,
20 2021. For identification purposes,
21 the Bates number is BLKUSI210 through
22 2016.

23 (The above-referred-to
24 document was marked as Defendant's
25 Exhibit 2 for identification, as of

1 MICHAEL REBIBO

2 this date.)

3 Q Let me show you what's been
4 marked as Defendant's Exhibit 2. Please
5 take a moment to look at it. And my
6 question will be simply whether you
7 recognize this document.

8 A Yes. I'm familiar with the
9 document.

10 Q Now, you are not listed on
11 the document as one of the people who
12 received a copy. I'm referring both to
13 the cover e-mail and to the actual
14 letter.

15 But did you, in fact, at
16 some point obtain a copy of the letter?

17 A Yes. Later on.

18 Q Do you recall when?

19 A No, but after the fact.

20 Q Let me just try to pin that
21 down a little bit more.

22 When you say after the fact,
23 you mean after April 12th, 2021?

24 A Yes. After April 12th,
25 2021.

1 MICHAEL REBIBO

2 Q Did you get it sometime in
3 April of 2021 or later than that?

4 A I can't recall, but not
5 within a day or two of April 12th, 2021.
6 It was materially after April 12th, 2021.

7 Q So did there come a time
8 when you became aware of the fact that
9 there was a potential equity investment
10 to be made in Ashkenazy Holdings?

11 A Potential -- not in
12 Ashkenazy Holdings, but a potential
13 equity investment in the Union Station;
14 in USSM and USI, yes.

15 Q When did you become aware of
16 that potential equity investment?

17 A Sometime in early 2021,
18 perhaps even late 2020. I can't recall.

19 Q How did you become aware of
20 it?

21 A The borrower had informed me
22 that they were in the process of
23 negotiating the potential joint venture
24 with a third-party.

25 Q That was before you actually

1 MICHAEL REBIBO

2 received a copy of the letter that we've
3 marked as Exhibit 2?

4 A Yes. I was aware that there
5 was a potential transaction pending, not
6 too many details, but I was aware of a
7 potential transaction pending.

8 Q What details were you aware
9 of when you first were talking about the
10 potential investment?

11 A That there was a sovereign
12 involved. I was not aware of specific
13 amounts, valuations, things like that,
14 that there were several approvals that
15 needed to be obtained, including CFIUS,
16 high-level.

17 Q Were you aware of -- were
18 you aware of the general size of the
19 amount of the investment?

20 A No. I was aware that it was
21 for a partial interest and that there was
22 a substantial cash infusion being made.
23 But specifically how much, I was not
24 aware.

25 Q At some point, did you

MICHAEL REBIBO

become aware that the proposed capital contribution would result in the foreign sovereign having a 50 percent interest in USI?

A I don't know that I was ever aware of the exact percentage. I don't think I was ever aware of the exact percentage. I was aware that they were a minority percentage, that they were not going to acquire the majority share. But I was aware that it was material.

Q Were you aware as to the total of the investment, there would be sufficient funds to bring the debt current?

A I was aware that there was a significant capital injection. I have been told various things by your client. I did not receive a breakdown of where the investment was being allocated or what would be done specifically with the investment.

Q Well, you did eventually receive a copy of the letter that we've

1 MICHAEL REBIBO

2 marked as Exhibit 2; correct?

3 A I can't recall when I
4 received a copy or if I even received a
5 copy of this letter after from your
6 client. I can't even recall.

7 Q Just to clarify, I think you
8 previously testified that you did at some
9 point receive a copy of this letter.

10 A I've seen the letter.
11 That's not what I said. I've seen this
12 letter. I can't recall if I ever got --
13 you saying did I ever receive it. I
14 can't recall if it was through the
15 discovery or -- okay, I've seen this
16 letter. But I can't recall if and when I
17 received it. And I don't know if I
18 received it from your client.

19 Q You don't recall how you
20 obtained the letter?

21 A I don't recall how I
22 obtained this letter.

23 MR. MARK: So let's mark as
24 Exhibit 3, an e-mail, dated
25 April 29th, 2021, and attached to

1 MICHAEL REBIBO

2 that is a letter of the same date.

3 And the Bates number is USDCUSSM2872
4 through 2874.

5 (The above-referred-to
6 document was marked as Defendant's
7 Exhibit 3 for identification, as of
8 this date.)

9 Q Let me show you what's been
10 marked as Defendant's Exhibit 3.

11 And do you recognize this
12 document?

13 A Okay.

14 Q Do you recognize this
15 document?

16 A I haven't seen it in a
17 while. But, yes, I do recognize the
18 document.

19 Q The cover e-mail is from Jay
20 Jantz at Arnold & Porter to yourself.

21 Do you see that?

22 A Yes.

23 Q And it's dated April 29th,
24 2021.

25 A Yes.

1 MICHAEL REBIBO

2 Q Did you receive the e-mail
3 and its attachment on or about
4 April 29th, 2021?

5 A I believe so.

6 Q Now, if I tell you, you
7 received this letter, you are already
8 aware of the potential equity investment;
9 is that correct?

10 A I was aware there was a
11 pending transaction.

12 Q According to the letter,
13 100 million has been deposited in escrow.
14 Do you see that?

15 A Yes.

16 Q At the time that you
17 received this letter, were you already
18 aware the 100 million had been put into
19 escrow?

20 A I've been told by the
21 borrower. But I hadn't been provided
22 with any proof of funds or anything like
23 that or a copy of the contract or
24 anything. So there have been no
25 documentation.

1 MICHAEL REBIBO

2 Q Did you ask for the
3 documentation?

4 A Yes.

5 Q Did you ever receive it?

6 A I don't believe so.

7 Q Now, who did you make the
8 request to?

9 A Michael Alpert, Dan Levy,
10 Ben Ashkenazy.

11 MR. MARK: I'm going to ask
12 the reporter to mark as Defendant's
13 Exhibit 4, an e-mail, dated April
14 12th, 2021, and an attached letter,
15 dated April 5th, 2021, that bears the
16 Bates numbers BLKUSI219 through 222.

17 (The above-referred-to
18 document was marked as Defendant's
19 Exhibit 4 for identification, as of
20 this date.)

21 Q Mr. Rebibo, have you seen
22 this e-mail and attachments before?

23 A I believe I've seen this,
24 yes.

25 Q Do you recall when you first

MICHAEL REBIBO

saw them?

A No.

Q Was it in or around April and May 2021?

A I can't recall the exact time. But I've seen the redacted letter.

Q So were you aware in and around April and May of 2021 that a 100 million escrow had been deposited and that a CFIUS application had been made in connection with the equity investment?

A I was informed that, yes.

Q So you were informed by?

A By your client.

Q Can you be specific as to who provided the information?

A Either -- I'm not sure which one. But either Michael Alpert -- definitely Michael Alpert and either Dan Levy or Ben Ashkenazy.

Q Are those the three individuals from USI with whom you were in regular contact?

A I was in regular contact

1 MICHAEL REBIBO

2 with Mr. Alpert and Mr. Levy as it
3 related to matters -- related to
4 high-level executive matters with respect
5 to the proposed investment. Other
6 matters, I was in touch with Mr. Press
7 related to the property level.

8 Q Now, were you also during
9 this time period in contact with
10 representatives of the senior lender?

11 A Yes.

12 Q With whom in particular did
13 you have contacts? And I'm talking about
14 generally in April and May of 2021.

15 A At that time, the point of
16 contact for the senior lender for the
17 special servicer was Roger Briggs at
18 Wells Fargo and Michael Mesard of
19 BlackRock.

20 Q I think we've already
21 identified Wells Fargo as a special
22 servicer at the time.

23 A Correct.

24 Q What was BlackRock's role?

25 A BlackRock owned the

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controlling class of the senior debt. So they had -- they had approval rights or veto rights over major decisions regarding the loan.

MR. MARK: I'm going to ask the reporter to mark as Defendant's Exhibit 5, an e-mail, an attachment, both dated April 12th, 2021, and the Bates numbers are BLKUSI229 through 232.

(The above-referred-to document was marked as Defendant's Exhibit 5 for identification, as of this date.)

Q Do you recognize Exhibit 5?

A Yes. I recognize it.

Q Now, the author of the e-mail is Langston Su.

Can you identify Langston Su?

A He was an employee for Rexmark.

Q What was his position at Rexmark at this time?

1 MICHAEL REBIBO

2 A He was the vice president.

3 Q What did he do?

4 A He oversaw asset management
5 on our debt portfolio.

6 Q Is he still with Rexmark?

7 A No.

8 Q When did he leave?

9 A I'm not exactly certain.
10 But I believe it was the end of 2021.

11 Q The e-mail was sent to
12 Michael Mesard and Roger Briggs. We've
13 already identified them. It then lists a
14 number of CCs, including yourself, and a
15 number of people from the e-mail address,
16 it appears to be KL Gates. You see that?

17 A Yes.

18 Q What was the role of KL
19 Gates at the time?

20 A They represented us.

21 Q Did there come a point when
22 they stopped representing you in
23 connection with this matter?

24 A Yes. There was a conflict
25 of interest because they also represented

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Wells Fargo.

Q Did they withdraw or did you basically ask them to stop representing you?

A Once there was -- I don't recall all the circumstances. But once there was the potential to become adverse with another client of theirs, I believe they withdrew, or we just agreed to part ways. I don't recall the circumstances exactly.

Q Now, the attachment is a memorandum prepared by Rexmark; correct?

A Yes.

Q And the reference line says "mezzanine foreclosure proposal."

Do you see that?

A Yes.

Q Does the memorandum contain a proposal for the mezzanine lender to foreclosure on its collateral?

A That's one of the things mentioned. It's also a proposal to bring the loan current.

MICHAEL REBIBO

Q Now, for -- in order for the mezzanine lender to foreclose at this time, did you need the consent of the senior lender?

A You don't need the consent of the senior lender to foreclose; however, under the terms of the intercreditor, you need to comply. So you do -- you do need various consents from the senior lender. You don't need their consent necessarily to foreclose. But you need to comply with them, which requires their consent, including things that are referenced later on in the letter about qualified transfer and things like that.

Q Could you have foreclosed without any communications with the senior lender?

A Theoretically, yes. But that would have been default under my intercreditor agreements if I didn't obtain any consents because I don't naturally meet the qualifications under

1 MICHAEL REBIBO

2 the intercreditor.

3 Q Was the purpose of this
4 communication represented by the e-mail
5 and the attachment to obtain the senior
6 lender's consent to foreclose on your
7 collateral?

8 A No. The purpose of the
9 letter was to negotiate an outcome which
10 would result in the senior lender
11 bringing the loan back into good
12 standing. The loan had been accelerated
13 in March of 2021 due to various defaults
14 and breached promises by your client.

15 Q What did you propose in
16 order to persuade the senior lender to,
17 in effect, de-accelerate their loan?

18 MR. SCHARF: Object to form.

19 You can answer.

20 A We had proposed bringing the
21 senior lender current on all their past
22 due interest, paying them a modification
23 fee and special servicing fee, which they
24 had previously requested, and then
25 funding projected shortfalls to the

MICHAEL REBIBO

senior for a period of time since the property was not producing enough cash flow to pay the senior debt current.

Q Is the total amount that you're proposing to inject 15 million?

A Yes.

Q Now, how did it come about that you made this proposal?

A The loan had been in default for a number of years at this point. We had executed a forbearance. Both lenders had executed a forbearance with your client in late 2020. Your client had defaulted on those agreements and had advised both lenders that they were not going to fund their obligations in 2021 or inject capital.

And the senior lender's patience, I guess, had run out because there was no -- there was no path towards a resolution at that point in time. The senior lender had accelerated the loan in late March. Your client had no -- the client had no credibility with any party.

1 MICHAEL REBIBO

2 Q Now, we've already discussed
3 the potential equity investment that the
4 borrower had told you about; correct?

5 A We've discussed it, yeah.
6 I'm not sure the correlation between that
7 and the loan being in default.

8 Q Well, if the equity
9 investment had come to fruition, would
10 that have resulted in providing
11 sufficient funds to cure the existing
12 default?

13 A Obliging by the loan
14 documents and complying with the loan
15 documents is not based on any potential
16 transactions. Your client is obligated
17 to do that, regardless of whether there's
18 a pandemic or regardless whether there's
19 a pending transaction or anything. It
20 doesn't negate the fact that he's
21 obligated to fund his responsibilities
22 under the loan documents.

23 And certainly, considering
24 the minimal amount of money that was
25 being talked about, relative to the size

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of the proposed investment, he should have been more than willing. If there was, you know, sincerely, a pending transaction, he should have been more than willing to fund \$4 million a month in March and April.

Q Let me go back to my question.

If the equity investment had closed, would that have provided sufficient funds to cure the existing default?

A I don't know. I would assume so. But I don't know for a fact because the loan had been accelerated. So I don't know.

Q As part of your proposal, you were asking the lender, in effect, to reinstate the loan; correct?

A Correct.

Q And would you expect a borrower to make a similar request in connection with the equity investment?

MR. SCHARF: Objection to

1 MICHAEL REBIBO

2 form. You could answer.

3 A Would I expect? I didn't
4 know what to expect of your borrower, to
5 be honest. Nobody did. As I said, the
6 borrower had not fulfilled his
7 obligations and had made numerous broken
8 promises. So in the credit department,
9 he was significantly lacking.

10 Q Sorry.

11 When you referred to the
12 credit department, what department are
13 you referring to?

14 A I mean that no party could
15 take what he said at face value. We
16 weren't sure of the circumstances around
17 the pending transaction. And the
18 borrower had means to cure the various
19 defaults, regardless of whether there was
20 a pending transaction or not, and elected
21 not to and told us she was not going to
22 commit any funds to the property.

23 So the senior lender's and
24 all the lenders could not rely upon a,
25 you know, proposed transaction that had

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MICHAEL REBIBO

2

been going on for a significant amount of

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time.

4

Q When you say a proposed

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transaction had been going on for a

6

significant amount of time, what are you

7

referring to?

8

A The pending transaction.

9

Q Which pending transaction?

10

A The proposed joint venture

11

with PIF.

12

Q Sorry.

13

PIF, what does that refer

14

to?

15

A The Public Investment Fund

16

of Saudi Arabia.

17

Q Do you know for how long

18

that had been pending?

19

A I don't know the exact

20

timelines. I believe the -- what I found

21

out later on was that the transaction

22

was done sometime in late 2020 and funded

23

sometime in early 2021 and had still not

24

been consummated by May of 2021. So at

25

least six months.

1 MICHAEL REBIBO

2 Q Now, turning back to the
3 proposal contained in Exhibit 5, when did
4 you first discuss with the senior lender
5 the concept that you would do a
6 foreclosure and bring the loan current?

7 A I can't recall the exact
8 dates.

9 Q How long prior to April 12th
10 of 2021 when this exhibit was written did
11 you first discuss that with them?

12 A Couldn't have been too long.
13 But I can't recall the exact dates.

14 Q Now, whose idea was it? Was
15 it your idea or was it their idea?

16 A I honestly don't recall.

17 MR. MARK: I'm going to ask
18 the reporter to mark as Defendant's
19 Exhibit 6, an e-mail and attachment,
20 dated April 15th, 2021, with the
21 Bates numbers BLKUSI235 through 238.

22 (The above-referred-to
23 document was marked as Defendant's
24 Exhibit 6 for identification, as of
25 this date.)

1 MICHAEL REBIBO

2 Q Can you take a look at what
3 we've marked as Defendant's Exhibit 6 and
4 let me know if you recognize this
5 document?

6 A Yes. I'm familiar with the
7 document.

8 Q Is this an updated version
9 of the proposal for mezzanine foreclosure
10 that we've previously discussed?

11 A Yes.

12 Q Were the changes made in
13 Exhibit 5 the result of conversations you
14 had with BlackRock?

15 A Some of the changes, yes.

16 Q Which changes?

17 A I believe the numbers were
18 rounded. Perhaps we got into more
19 specifics. Certainly the list in No. 3,
20 the concept discussed. There had been
21 some discussions between the first
22 proposal and the updated proposal.

23 Q Did Wells Fargo participate
24 in these discussions or were they solely
25 with BlackRock?

1 MICHAEL REBIBO

2 A I believe Wells Fargo -- I
3 participated in some discussions with
4 Wells Fargo. I can't recall if they were
5 all on the phone at the same time.

6 MR. MARK: I'm going to ask
7 the reporter to mark as Defendant's
8 Exhibit 7, an e-mail and attachment,
9 dated April 21st, 2021, with the
10 Bates numbers BLKUSI663 through 666.

11 (The above-referred-to
12 document was marked as Defendant's
13 Exhibit 7 for identification, as of
14 this date.)

15 Q Do you recognize this
16 document?

17 A Yes. I recognize the
18 document.

19 Q Does Exhibit 7 contain an
20 updated version of the proposal we have
21 discussed?

22 A Yes.

23 Q And are the updates the
24 result of conversations that you were
25 having with BlackRock?

1 MICHAEL REBIBO

2 A And Wells Fargo, yes.

3 Q Now, the cover e-mail on the
4 first page of the exhibit says, among
5 other things, "In addition, we will
6 address and discuss your proposal on the
7 profit participation concept and help to
8 potentially structure it."

9 Do you see that?

10 A Yes.

11 Q What was the profit
12 participation concept?

13 A Conceptually, they were
14 proposing that if the value of the asset
15 was ever recovered beyond the senior
16 lender's principal and interest that
17 there would be some sort of a premium
18 concept above a certain threshold.

19 Q Who made that proposal?

20 A BlackRock.

21 Q And who would get the
22 benefit of that premium?

23 A I don't know what the
24 internal split was.

25 Q A split among whom?

1 MICHAEL REBIBO

2 A The senior lender parties, I
3 guess. I don't know. Certainly not
4 myself.

5 Q Let me just make sure I
6 understand your answer.

7 Did you anticipate that the
8 premium would be divided equally among
9 all the senior lenders?

10 A That was not my impression.
11 But I don't know.

12 Q What was your impression?

13 MR. SCHARF: Objection to
14 form. You could answer.

15 A They were seeking a premium
16 to reinstate the loan. And I didn't ask
17 what's the split or who's getting what.

18 Q When you say they, you're
19 referring to BlackRock?

20 A Yes.

21 Q Was it your understanding
22 that BlackRock was seeking a premium for
23 themselves?

24 A Potentially.

25 Q What was that understanding

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based on?

A Well, they had made the request. Initially, it did not come from Wells Fargo. And if you pull up the next exhibit you're about to show me, you'll see that they removed Wells Fargo from the response on the reply.

Q Thank you for anticipating my next exhibit.

A No problem. You want me to tell you how this case is going to go?

Q Sure.

MR. MARK: Let's mark as Exhibit 8, an e-mail chain in which the first e-mail is dated -- when I say first, I mean the e-mail on top, which is the latest in time, is dated April 23, 2021 and has the Bates numbers BLKUSI683 through 688.

(The above-referred-to document was marked as Defendant's Exhibit 8 for identification, as of this date.)

Q Can you identify Exhibit 8?

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MICHAEL REBIBO

A You're missing the parties.
You see? You missed that. Exhibit 8 is
the same e-mail chain; however, you're
missing the parties on the response.
It's not in your e-mail.

Q It was the way it was
produced to us. I didn't pick anything
out.

A I don't think that's
accurate.

Q Can you just for the record
be specific as to what you're referring
to?

A This is a further updated
e-mail chain between myself and the
senior lender party, BlackRock. But what
you could see here is that the parties on
the e-mail chain have been changed. And
Wells Fargo is removed. And somebody
senior at BlackRock has been added.

Q So let's try to be specific
in what you're referring to.

 So if you turn to page 2 of
the document, the first full e-mail from

1 MICHAEL REBIBO

2 Langston Su on April 21, 2021 is the same
3 e-mail that was the top e-mail, the
4 previous exhibit; correct?

5 A Yes.

6 Q And above that, you got an
7 e-mail from Michael Mesard, also dated
8 April 21, 2021?

9 A Yes.

10 Q And I think what you're
11 pointing out is that you cannot tell just
12 looking at this e-mail who exactly the
13 addressees were; correct?

14 A Correct.

15 Q But if you look at the next
16 e-mail, which is dated April 23rd from
17 yourself, did you respond to whomever had
18 sent you the previous e-mail?

19 A Yes, I did.

20 Q And it's clear from your
21 e-mail that Wells Fargo is not on that
22 e-mail; correct?

23 A Correct.

24 Q And is it your testimony
25 that the e-mail from Michael Mesard,

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MICHAEL REBIBO

which is at the very bottom of the first page, did not include Wells Fargo as an addressee?

A That is my testimony, yes.

Q Did you have an occasion to ask Mr. Mesard why he did not include Wells Fargo on his e-mail to you?

A No.

Q So let's look at Mr. Mesard's e-mail which begins at the bottom of page 1 and then continues on the top of page 2.

So did you understand that Mr. Mesard's e-mail was in response to the proposal that we've already looked at that was in Rexmark's April 21 e-mail?

A Yes.

Q Now, first point is that the CMBS trust needs to be made current. You see that?

A Yes.

Q Is it fair to say that was not a controversial point?

A Correct.

1 MICHAEL REBIBO

2 Q Next, Mr. Mesard asks for a
3 cushion against future shortfalls. You
4 see that?

5 A Yes.

6 Q And, again, in concept,
7 that's something you were already
8 proposing; correct?

9 A In concept.

10 Q However, he's now proposing
11 to increase that amount; is that correct?

12 A Yes.

13 Q From 5 million to
14 10 million?

15 A Yes.

16 Q Was that increase something
17 that was acceptable to you?

18 A I don't recall if it was
19 acceptable or not. But we were not that
20 far apart, a few million bucks, I think,
21 between what he proposed and what I
22 proposed.

23 Q Let's look at your e-mail
24 which is the first e-mail on page 1.

25 A We never had a finalized

MICHAEL REBIBO

term sheet to answer your question.

There was no finalized agreement. We never even went to our committees.

Q We'll get to that.

But just breaking down on this point, was this one point you did not agree upon which was the amount that you were willing to put up for future shortfalls?

A It was a point that we were still discussing.

Q And his third point was a need for a reasonable profit participation?

A Yes.

Q Which we've already discussed.

Now, in your response to Mr. Mesard's e-mail, which is on page 1, you write that, "Regarding the profit participation, I don't have a formal response to you yet, as it is largely affected by what deal we strike with potential operators/JV partner."

1 MICHAEL REBIBO

2 Do you see that?

3 A Yes.

4 Q What were you referring to
5 when you mentioned a potential
6 operator/JV partner?

7 A We were referring to, we
8 didn't know what type of deal we were
9 going to make with any third-party,
10 whether it was the borrower or potential
11 other third-party. So we couldn't commit
12 to something based on something we didn't
13 know.

14 Q Was Rexmark's willingness to
15 enter into an agreement with the senior
16 lender of that type that we were
17 discussing contingent upon Rexmark
18 finding a JV partner?

19 A No. I don't believe so; in
20 fact, one thing you're not looking at
21 here is one of the prior e-mail
22 correspondences or lists between these
23 proposals, I think we included the
24 borrower as an eligible party. That was
25 conveniently skipped in your production.

1 MICHAEL REBIBO

2 Q Can you elaborate on that?
3 What was the concept?

4 A You have a list of
5 preapproved JV partners or operators in
6 there. One of the prior e-mail
7 correspondences I believe had a list that
8 included Ashkenazy. It's not in the
9 production you just gave me.

10 Q Do you know which document
11 contains that?

12 A I don't know if it was a
13 document or an e-mail because there had
14 been communications between the parties.
15 But we could get that for you if you
16 don't already have it. But I believe you
17 have it.

18 Q So just to clarify, what
19 you're referring to -- so if you look at
20 Exhibit 6, it contains a list of
21 preapproved third-party operators. Do
22 you see that? I'm looking at the last
23 page of Exhibit 6 under Item No. 3. Is
24 that what you're referring to?

25 A Yes.

1 MICHAEL REBIBO

2 Q And it lists various
3 third-parties?

4 A Yes.

5 Q What was the prospective
6 role of these third-parties listed here?

7 A Under the intercreditor
8 agreement, Rexmark did not qualify by
9 itself as a party that could take over
10 operation of Union Station under the
11 intercreditor agreement with the senior
12 loan.

13 So we would need to bring in
14 a third-party that did qualify or meet
15 the terms. I shouldn't say qualified.
16 But I should say meet the terms of the
17 intercreditor. And those were just a
18 list of well-known parties that in our
19 opinion would qualify.

20 Q So is it your testimony that
21 you were considering having Ashkenazy act
22 as a role as such a party?

23 A There was a potential, yes.
24 There was a potential party, yes.

25 Q But you did not list him in

1 MICHAEL REBIBO

2 that list?

3 A It's not in that exhibit.
4 But it's in one of the other
5 correspondences.

6 Q Can you provide any more
7 details as to which correspondence that
8 is in?

9 A As I said, we could get you
10 that information. But it's in some
11 correspondence in April of 2021.

12 Q So just so I understand, you
13 did advise BlackRock that one of the
14 parties you made joint venture with, if
15 you did this transaction, would be
16 Ashkenazy?

17 A Yes.

18 Q Did they have any reaction
19 to that?

20 A Yes.

21 Q What was their reaction?

22 A They were concerned about a
23 defaulted borrower who wasn't maintaining
24 the asset properly and as I said earlier,
25 had no credibility in keeping their word,

MICHAEL REBIBO

continuing the role because essentially over two years, we had been trying to work with the borrower and made numerous accommodations to them. Those accommodations and good will by the lenders had never been reciprocated by the borrower. The borrower had been very vocal about his unwillingness to commit capital to the project.

So they were not so keen on the idea to keep a difficult party who had breached numerous obligations continuing in the role if we were to restructure the loan. The loan had been accelerated at that point.

Q What you're telling me now, these are all things that Mr. Mesard said to you in April of 2021?

A I'm not saying all of those things. Certainly, the credibility thing, I'm saying. But people were generally fed up with them.

Q I'm trying to separate what was in your mind now and then versus what

1 MICHAEL REBIBO

2 Mr. Mesard may have told you.

3 A Well, what I'm saying to you
4 is that there was a list of preapproved
5 names that included Ashkenazy and a later
6 list that you're showing here
7 selectively. It's out. And the reason
8 is because I had a conversation with the
9 senior lenders.

10 And they had expressed
11 concern about if the loan were to be
12 reinstated and restructured, doing so
13 with Ashkenazy, they were expressing
14 concerns. So we removed their name from
15 the future proposals.

16 MR. SCHARF: David, we've
17 been going an hour and 15. Would now
18 be a convenient time for a short
19 five-minute break?

20 MR. MARK: That would be
21 fine.

22 THE VIDEOGRAPHER: This will
23 end Media Unit 1, going off the
24 record at 11:18.

25 (A short recess was taken.)

1 MICHAEL REBIBO

2 THE VIDEOGRAPHER: We're
3 back on the record at 11:31. This
4 will begin Media Unit 2.

5 Q I think we already started
6 discussing.

7 But what happened with this
8 foreclosed proposal after this e-mail
9 exchange we've just been talking about?

10 A I don't recall the exact
11 dates. But sometime in May of 2021, the
12 transaction had died in sometime late May
13 of 2021. And discussions with the senior
14 lender had ceased.

15 Q Did you lose interest in the
16 concept of doing a foreclosure at that
17 time?

18 A I don't think we had any
19 interest in doing a foreclosure, per se.
20 I think we were interested in finding a
21 resolution to reinstate the loan that
22 didn't involve us getting wiped out. We
23 never started a foreclosure until
24 November of 2021.

25 Q I'm just trying to get a

MICHAEL REBIBO

sense whether these discussions just died, or was there any particular reason why I guess they stopped?

A I think they took a hiatus as a result of things that took place between the borrower and the senior lender and the prospective deal. But certainly, there was no -- your prior comment about, did we lose interest in foreclosure, I don't think we ever had particular interest in a foreclosure. We were trying to resolve and reinstate the loan at that time.

Q In Mr. Mesard's e-mail to you of April 21, which we've already discussed, which is on page 2 of Exhibit 8, Mr. Mesard says at the end of the e-mail, "Most importantly as you know, we are running out of patience and time on this. And we are dual tracking multiple approaches."

You see that?

A Yes.

Q And did Mr. Mesard tell you

1 MICHAEL REBIBO

2 what other approaches he was tracking?

3 A He had commenced and sent us
4 and the borrower notices that he was in
5 the process of commencing a foreclosure
6 action. He hadn't officially commenced
7 the foreclosure. But I believe he had
8 sent a notice as part of those
9 preliminary steps that a lender would
10 take as part of commencing an action.

11 Q Just to clarify, was any
12 foreclosure action commenced in May of
13 2021?

14 A No.

15 MR. MARK: I'm going to ask
16 the reporter to mark as Exhibit 9, an
17 e-mail chain in which the top e-mail
18 is dated May 10th, 2021, and it has
19 the Bates numbers BLKUSI1463 through
20 1467.

21 (The above-referred-to
22 document was marked as Defendant's
23 Exhibit 9 for identification, as of
24 this date.)

25 Q Mr. Rebibo, can you identify

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MICHAEL REBIBO

Exhibit 9?

A Yes. I'm familiar with this e-mail.

Q The first sentence of the top e-mail, which is from you to Michael Mesard, among others, you say, "As a follow-up to our conversation Thursday, I want to point out that despite the photos we sent you being thorough, we highly recommend that you take a trip to the property as it is difficult to grasp the situation without physically touring everything."

Do you see that?

A Yes.

Q What were you trying to convey to Mr. Mesard in that sentence?

A CMBS lenders and bondholders typically aren't as familiar with the assets themselves. And I thought it would be beneficial to all parties to see the asset personally versus looking at pictures online. And I didn't think that -- I thought it would be educational

1 MICHAEL REBIBO

2 and informative for them to do so.

3 Q Why was that?

4 A Because we were discussing a
5 loan modification. And they were
6 exploring various options. I didn't
7 think they fully understood the asset.

8 Q What aspect of the asset do
9 you think they did not fully understand?

10 A I don't think they fully
11 understood the market in Washington, D.C.
12 or the asset or the state of the asset,
13 any distress it had been experiencing.

14 Q Were you trying to convey
15 that the asset required further
16 investment?

17 A I think that was -- everyone
18 was aware of that. I don't think they
19 understood the full extent of the nature
20 of the asset or what the asset was
21 dealing with. I don't think anyone was
22 in denial that the asset required an
23 investment.

24 Q I'm just trying to
25 understand, what do you think they did

1 MICHAEL REBIBO

2 not fully understand?

3 A I think it's important for
4 everybody to be operating on the same
5 information when you're a lender dealing
6 with a distressed situation. If one
7 party is not operating with the same
8 level of information as the other party,
9 it makes it difficult for people to see
10 eye to eye.

11 Q Did you believe that you had
12 information that BlackRock did not have?

13 A No. I believe that I was
14 more familiar with it since my knowledge
15 of the asset was superior to theirs. And
16 I had personally gone and seen the asset
17 which I thought was very helpful.

18 Q Helpful in what respect?

19 A I think I answered the
20 question.

21 Q You said you've personally
22 gone and seen the asset, and I thought
23 that was very helpful.

24 So I'm trying to understand,
25 helpful in what respect?

MICHAEL REBIBO

A I think I answered the question. When an asset is in distress and it's a complicated asset, such as Union Station, it's helpful for the parties involved in the decision making to go and see the assets for themselves versus looking at pictures or numbers on a spreadsheet.

Q You then go on to say, "It has become increasingly clear after touring the property that it's in everyone's best interest (senior lender and mezzanine lender) to do everything we can to ensure this pending transaction that the borrower has provided notice for forecloses."

You see that?

A Yes.

Q Were you trying to persuade BlackRock to support their proposed equity investment?

A I was.

Q And why was that?

A I thought at the time that

1 MICHAEL REBIBO

2 it would be in the best interest of all
3 parties.

4 Q When you say all parties,
5 are you including the borrower as among
6 the parties?

7 A I was referring to myself
8 and the senior lender and the asset
9 potentially.

10 Q Are you excluding the
11 borrower from the parties from whose
12 benefit it would be?

13 A No. There's no discussion
14 in this e-mail about doing a deal with
15 the party without the borrower. It
16 specifically says it's in everyone's best
17 interest to ensure that this pending
18 transaction that the borrower has
19 provided notice for forecloses.

20 Q I guess the reason I'm
21 asking the question, you say it's in
22 everyone's best interest, and then in
23 parentheses, you say "senior lender and
24 mezzanine lender."

25 So were you intentionally

1 MICHAEL REBIBO

2 excluding the borrower from the parties
3 whose interest it would be in?

4 A No. I specifically referred
5 to the pending transaction that the
6 borrower has provided notice for. What
7 you're inferring is not accurate.

8 Q I'm just trying to clarify
9 what you had in mind.

10 You agree with me that it
11 would be in the borrower's best interest
12 as well to close that transaction?

13 A I said everyone, and I
14 specified the senior lender and mezzanine
15 lender to do everything to ensure that
16 this pending transaction, that the
17 borrower has provided notice for
18 forecloses. I didn't say a separate
19 transaction.

20 Q So you will agree with me
21 that among the parties who would have an
22 interest in foreclosing the transaction
23 would be the borrower?

24 MR. SCHARF: Objection to
25 form. You could answer.

1 MICHAEL REBIBO

2 A I agree that it was in the
3 best interest of all parties, including
4 the borrower.

5 Q Did you have an
6 understanding at the time you wrote this
7 e-mail on May 10th as to what BlackRock's
8 position was with respect to the proposed
9 equity transaction?

10 A Not entirely.

11 Q What was your understanding?

12 A My understanding was that
13 they had received the notice from the
14 borrower in late April or in mid-April to
15 consent and that they were frustrated
16 with the borrower for still being
17 unwilling to inject capital into the
18 transaction or be reasonable.

19 Q What was your basis for that
20 understanding?

21 A Can you clarify the
22 question?

23 Q Sure.

24 In your previous answer, you
25 said they were frustrated with the

MICHAEL REBIBO

borrower.

And I guess my question is, what's the basis for your understanding that they were frustrated with the borrower?

A Well, in hindsight --

Q I'm not asking for hindsight. I'm asking your understanding in May of 2021.

A Well, if you have a potential transaction with a third-party to inject hundreds of millions of dollars into an asset and while that potential transaction is going on and you have a hundred million deposit up in escrow, your loan is in default, your loan's been accelerated which was the case for your client, and you can solve it for a relatively insignificant amount of money, a few million dollars, would have been a show of good faith at the time.

But your client said they weren't willing to do, all while they had the means to do it. Your client is a

MICHAEL REBIBO

multi-billionaire, or at least that's what Forbes says. And they have the means to come up with that money but won't do it. It doesn't instill a lot of confidence in the lender party which the borrower who stands to benefit the most from the transaction is not willing to commit a few dollars of their own money.

So because the borrower wasn't acting appropriately, they were frustrated and did not have a lot of faith in the borrower. Nobody did at that point.

Q But nevertheless, on May 10th, 2021, you were urging BlackRock to support the equity investment transaction; correct?

A Correct.

MR. MARK: I'm going to ask the reporter to mark as Defendant's Exhibit 10, an e-mail, dated May 21, 2021, with an attachment, with the Bates numbers USDCUSSM703 through 708.

MICHAEL REBIBO

(The above-referred-to document was marked as Defendant's Exhibit 10 for identification, as of this date.)

Q Mr. Rebibo, can you identify Exhibit 10?

A It's an e-mail from Dan Levy to me in response to a request I made, asking for a copy of the notices that were exchanged between the senior lender and the borrower back in April, specifically a notice, dated April 26th, where the senior lender responds to the borrower's request for consent.

Q When did you become aware that Wells Fargo had responded to the consent request?

A I can't recall.

Q Were you aware of such a response when you sent your May 10th e-mail that was Exhibit 9?

A I can't recall. I was obviously aware in my e-mail that there was some discussion or dialogue going on.

1 MICHAEL REBIBO

2 But I can't recall the exact.

3 Q Now, other than your
4 May 10th e-mail to Mr. Mesard, did you
5 have any discussions with BlackRock or
6 Wells Fargo, concerning their response to
7 the equity investment notice?

8 A I don't recall any specific
9 discussions. I imagine there were
10 discussions. But I can't recall a
11 specific one.

12 Q When you say you would
13 imagine there were discussions, what are
14 you referring to?

15 A We were communicating
16 routinely. So at that time in May of
17 2021, I can't recall a specific
18 discussion.

19 MR. MARK: Let's mark as
20 Exhibit 11, a letter and various
21 attachments with the Bates numbers
22 KTB0002424 through 2510.

23 (The above-referred-to
24 document was marked as Defendant's
25 Exhibit 11 for identification, as of

1 MICHAEL REBIBO

2 this date.)

3 Q Mr. Rebibo, you're welcome
4 to look at the whole document. But I'm
5 only going to ask you about the letter
6 that begins on the second page of the
7 document.

8 MR. SCHARF: David, while I
9 noticed that the documents are
10 certainly in Bates order, there seems
11 to be an assemblage of multiple
12 separate documents. Is there a
13 reason you're marking all of them or
14 is it just that you need certain
15 pages in here?

16 MR. MARK: It was the way it
17 was produced to us.

18 MR. SCHARF: Yes. First
19 looking at the Bates range,
20 definitely, it's in sequence.

21 MR. MARK: As I said, I'm
22 frankly just interested in the
23 letter. It's just they're all part
24 of the same document.

25 A Yes. I'm familiar with the

MICHAEL REBIBO

document.

Q Can you take a look at the letter that begins on page 2, Kasowitz Benson Torres letterhead? You see that?

A Yes.

Q You see what I'm referring to?

A The one signed by the other Mark, the one signed by the other Mark.

Q Yes.

Signed by Mark Kasowitz, do you see that?

A Yes.

Q Did you get a copy of this letter on or about May of 2021?

A Yes.

Q I'm going to ask you to look at the third-full paragraph on page 2 of the letter. You see that?

A Yes.

Q Which begins, "Among other sources of our client's information."

A Yes.

Q And then mentions your name?

1 MICHAEL REBIBO

2 A Yes.

3 Q I'm going to ask you to read
4 that paragraph and to tell me whether
5 this paragraph accurately describes
6 information that you provided to
7 Mr. Ashkenazy and his colleagues.

8 A "Among other sources of our
9 client's information, Michael Rebibo of
10 Rexmark Holdings LLC, the servicer for
11 the mezzanine loan, has informed our
12 clients that on numerous occasions,
13 Mr. Mesard on behalf of the mortgage
14 lenders told Mr. Rebibo that the mortgage
15 lenders are requiring participation in
16 the -- quote on quote -- equity or upside
17 in order to consider consenting to the
18 investment transaction."

19 Q Let me stop you there.
20 What you've read so far,
21 that correctly describes information you
22 provided to Ashkenazy?

23 A No.

24 Q In what respect is it
25 incorrect?

MICHAEL REBIBO

A The statement here is that I indicated to the borrower that Mr. Mesard had informed me that he would only consent to the proposed transaction if he had an equity upside or participation interest in the asset. That statement is false.

Q Can you continue reading?

A "This conduct was further confirmed and evidenced in an e-mail from Mr. Mesard, dated April 21st, 2021, to Mr. Rebibo, wherein Mr. Mesard reiterated this unlawful demand. Moreover, Mr. Rebibo stated that Mr. Mesard also attempted to create an alternative arrangement with Mr. Rebibo, whereby the mortgage lenders also sought to obtain equity by having the mezzanine lender initiate foreclosure proceedings. This bad faith and self-serving scheme is further evidence by the mortgage lender's refusal to engage in discussions regarding consent of the investment transaction."

1 MICHAEL REBIBO

2 Q Does what you just read
3 accurately report information that you
4 provided to Mr. Ashkenazy and his
5 colleagues?

6 A No.

7 Q In what respect is it not
8 correct?

9 MR. SCHARF: Why don't you
10 take it sentence by sentence like you
11 were doing before.

12 A Well, the first sentence
13 says this conduct was further confirmed
14 in evidence in an e-mail by Mr.-- from
15 Mr. Mesard, dated April 21st, 2021, to
16 Mr. Rebibo, wherein Mr. Mesard reiterated
17 this unlawful demand. The premise of the
18 sentence that we're talking about, the
19 proposed transaction in an April 21
20 e-mail, it's completely false.

21 There's no reference that
22 Mr. Mesard and I were discussing the
23 proposed transaction. So the premise of
24 the sentence is completely false.

25 Q What about the next --

MICHAEL REBIBO

A "Moreover, Mr. Rebibo stated that Mr. Mesard has also attempted to create an alternative arrangement with Mr. Rebibo, whereby the mortgage lenders also sought to obtain equity by having the mezzanine lender initiate foreclosure proceedings."

That statement is misleading. The statement is basically saying that the mortgage lender was pressuring us to foreclose. And that's a misleading statement. The mortgage lender had sought to be brought current and had given the borrower numerous opportunities to do so. The borrower obviously didn't perform and didn't keep their word. And that's -- so the statement is misleading. The statement indicates that the mortgage lender was predatory. And I don't believe that to be the case at the time. This bad faith and self-serving scheme is further evidenced by the mortgage lender's refusal to engage in discussions

MICHAEL REBIBO

regarding consent of the investment transaction. Well, I don't know if that statement is entirely true. I see the dates in the various letters. But I also see in the letter, no response, that the senior lender indicated that they're willing to entertain the transaction. But they would like the borrower to come current on the past due amounts. So I don't know if that statement's true or not. But given the previous statements are all false, I would imagine that statement's false also.

MR. MARK: Let's mark as Defendant's Exhibit 12, an e-mail from Michael Mesard, dated June 3rd, 2021, which has the Bates number BLKUSI1617.

(The above-referred-to document was marked as Defendant's Exhibit 12 for identification, as of this date.)

Q Can you identify Exhibit 12?

A Yes. It's an e-mail from

MICHAEL REBIBO

Michael Mesard to myself in response to an e-mail I sent him on June 2nd.

Q Let's turn first to your e-mail which is the second e-mail on this page.

What prompted you to send that e-mail?

A Following the termination of the pending transaction and the borrower's letter, effectively threatening litigation, there had been I believe little to no dialogue. I don't know if there was any dialogue for almost a ten-day span or 11 or 12-day span. So I was reaching out to Mr. Mesard to reengage in discussions and find a solution to move forward.

Q And Mr. Mesard responds by saying, "Please reach out to Wells to discuss"; is that correct?

A Correct.

Q Did you subsequently reach out to Wells Fargo to have the discussion?

1 MICHAEL REBIBO

2 A Yes.

3 Q Did you obtain any
4 understanding as to why Mesard declined
5 to speak to you directly?

6 A I never got an official
7 response. But I imagine when potential
8 litigation is involved and there's a
9 designated agent on behalf of the entire
10 senior lender, they wanted the agent to
11 speak and one party to be talking.

12 Q What did you discuss with
13 Wells Fargo when you did reach out to
14 them?

15 A Discussing a resolution on
16 reinstating the loan. We brainstormed on
17 ideas about how to move forward, talked
18 about solutions involving avoiding
19 litigation with the borrower.

20 Q Did you discuss any specific
21 potential solutions?

22 A I can't recall if I
23 discussed, I don't recall, our proposals
24 at that point. There were no more
25 proposals at that point.

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MICHAEL REBIBO

MR. MARK: Let's mark as Exhibit 13, an e-mail with an attachment. The top e-mail is dated June 15th, 2021, and the Bates numbers are KTB19048 through 82.

(The above-referred-to document was marked as Defendant's Exhibit 13 for identification, as of this date.)

Q Mr. Rebibo, I'll just ask you to take a look at the end of this document which contains a June 16th letter. You could look the whole thing, if you want. But my questions are really going to be directed to the attachment which is at the end of this document.

A What am I looking for?

MR. SCHARF: The attachment at the very end of this e-mail chain. It's the last four pages.

THE WITNESS: The last four pages?

MR. SCHARF: Yes.

Q You have in front of you the

1 MICHAEL REBIBO

2 June 16th letter that I'm referring to?

3 My question is very simple.

4 What was the reason for
5 sending a Notice of Default at this
6 specific point in time?

7 A I can't recall the reason to
8 send it at that point in time. The
9 notice is explicit. The legal fees, they
10 were six months overdo, seven months
11 overdo, eight months overdo.

12 MR. MARK: I'm going to ask
13 the reporter to mark as Defendant's
14 Exhibit 14 an e-mail, dated June 2nd,
15 2021, that bears the Bates numbers
16 BLKUSI1612 through 1614.

17 (The above-referred-to
18 document was marked as Defendant's
19 Exhibit 14 for identification, as of
20 this date.)

21 Q Mr. Rebibo, you're not
22 involved in this correspondence. But
23 there's one specific question I want to
24 ask you about it.

25 You'll see in the bottom --

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MICHAEL REBIBO

beginning at the bottom of the first page
and the very top of the second page,
there's an e-mail from Michael Mesard to
someone at Wells Fargo where he
says, "Hi, Lisa. Could you please call
me tomorrow?"

And it goes on to say, "We
were disappointed with the way this
transaction was handled."

You see that?

A Yeah.

Q And he's referring to the
Union Station transaction; is that
correct?

A Yes.

MR. SCHARF: I was going to
say objection to form. You can
answer.

A Yes. He's referring to the
administration of the loan.

Q Did Mr. Mesard ever express
a similar view to you that he was
disappointed with the way Wells Fargo has
handled its administration of the loan?

1 MICHAEL REBIBO

2 A In June of 2021, I wasn't
3 even talking to him.

4 Q Leaving aside the specific
5 date, did you have a conversation with
6 Mr. Mesard where he told you that he was
7 disappointed with the way Wells Fargo was
8 handling or has handled the
9 administration of the senior loan?

10 A I can't recall.

11 Q You don't recall, one way or
12 the other, or you don't recall having any
13 such conversation?

14 A I don't recall having a
15 specific conversation. I can't recall if
16 he ever expressed that. I don't know.
17 He may or may not. I don't know. I
18 don't recall.

19 Q Do you have an understanding
20 of what Mr. Mesard was referring to?

21 A No, not specifically at this
22 point in time. I don't.

23 Q Do you have a general
24 understanding of what he was referring
25 to?

1 MICHAEL REBIBO

2 A At this point in time, there
3 was the threat of litigation for the
4 borrower. And the spotlight was on him.
5 He was named in a letter. So I imagine
6 he wasn't too pleased with the situation.

7 MR. MARK: I'm going to ask
8 the reporter to mark as Exhibit 15,
9 an e-mail from Michael Rebibo, dated
10 June 28th, 2021, and it bears the
11 Bates numbers KTB4609 through 4614.

12 (The above-referred-to
13 document was marked as Defendant's
14 Exhibit 15 for identification, as of
15 this date.)

16 Q Can you identify this
17 document?

18 A Yes.

19 Q The e-mail and attachment
20 contains summaries of a meeting that you
21 attended; is that correct?

22 A Yes.

23 Q And this was a meeting held
24 on June 24th, 2021 and involved
25 representatives of Ashkenazy, Wells

1 MICHAEL REBIBO

2 Fargo, BlackRock and yourself; correct?

3 A Yes.

4 Q And the attachment in the
5 e-mail is titled "Meeting Summary."

6 You see that?

7 A Yes.

8 Q Did you prepare this meeting
9 summary?

10 A Myself, along with someone
11 in my office.

12 Q And that other person who
13 assisted you was Langston Su; is that
14 correct?

15 A Correct.

16 Q Was this summary intended to
17 be a comprehensive summary of the
18 meeting?

19 A No. General.

20 Q Is there anything specific
21 that you can recall that you left out of
22 the summary?

23 A Nothing specifically, no.

24 Q What was the purpose of this
25 meeting?

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MICHAEL REBIBO

A It was a meeting between all parties to discuss a proposal by the borrower and a resolution that avoided litigation.

Q What was the result of the meeting?

A The borrower's proposal was not acceptable to any of the other parties. And there was some internal processes that the senior lender needed to -- that the senior needed to complete in order to come back with a counterproposal.

Q Did the senior lender ever come back with a counterproposal?

A I can't recall if they ever came back with a formal counterproposal.

Q Were there any follow-up discussions after the meeting?

A Yes.

Q What was the substance of those discussions?

A Discussions about potential restructuring negotiations.

1 MICHAEL REBIBO

2 Q Anything more specific that
3 you could recall?

4 A No.

5 MR. MARK: Let's mark as
6 Exhibit 16, an e-mail chain in which
7 the top e-mail is from Michael
8 Rebibo, dated September 9th, 2021,
9 and it bears the Bates range KTB4557
10 through 4588.

11 (The above-referred-to
12 document was marked as Defendant's
13 Exhibit 16 for identification, as of
14 this date.)

15 Q Mr. Rebibo, I'm not going to
16 ask you about each and every one of these
17 e-mails in this chain.

18 But do you generally
19 recognize this e-mail?

20 A Yes. I'm familiar with the
21 document.

22 Q Leaving aside the first two
23 pages, most of these e-mails concerns
24 various requests for approval that
25 Rexmark sent to persons in South Korea;

1 MICHAEL REBIBO

2 is that right?

3 A Yes.

4 Q So my general question is
5 whether these e-mails are typical in the
6 process, whereby Rexmark sought approval
7 from KTB matters relating to Union
8 Station.

9 MR. SCHARF: Objection to
10 form. You can answer.

11 A It was common practice prior
12 to acquiring the senior loan in January
13 of 2022, I believe, not common practice,
14 post January of 2022 when we acquired the
15 senior loan.

16 Q What changed in January 2022
17 regarding the practice?

18 A We acquired the senior loan.
19 And we had more discretion on a
20 day-to-day basis over what took place.

21 Q Looking at the first e-mail
22 on the very top of the first page of the
23 document, I think we've already
24 identified who Jaesang Eum is. The other
25 person mentioned in the CC line is

1 MICHAEL REBIBO

2 Yongsoo Park. You see that.

3 A Yes.

4 Q Who is Yongsoo Park?

5 A He is the head of Asia
6 Pacific for Rexmark. He works at our
7 office in South Korea.

8 Q Does Rexmark have offices
9 anywhere else, other than New York and
10 South Korea?

11 A No.

12 Q Is there a specific reason
13 why you have an office in South Korea?

14 A We have a substantial
15 platform there. We've raised money from
16 a large number of institutions in that
17 market. And that's just our base for
18 Asia.

19 Q Now, in the e-mail that
20 begins on the bottom of page 1 and
21 continues at the top of page 2, someone
22 named Seog asks for certain information.
23 You see that?

24 A Yes.

25 Q Who is Seog?

1 MICHAEL REBIBO

2 A Seog was an employee at KTB
3 as I recalled at the time that worked
4 underneath Jaesang. He was the
5 administrator for the loan.

6 Q What's his full name?

7 A Seog Cho.

8 Q How do you pronounce his
9 last name?

10 A Cho.

11 Q I'm sorry.

12 How do you spell his last
13 name?

14 A C-H-O.

15 Q In your e-mail at the top of
16 the first page, you summarize a call with
17 Wells Fargo. Do you see that?

18 A At the top of the first
19 page?

20 Q Yes.

21 A Yes.

22 Q Do you have a recollection
23 of that call, separate and apart from the
24 e-mail?

25 A Vaguely.

1 MICHAEL REBIBO

2 Q Is your e-mail an accurate
3 summary of that call?

4 A Generally.

5 Q Now, in the last paragraph
6 in the e-mail, you mentioned an e-mail
7 that Cushman & Wakefield sent you. You
8 see that?

9 A Yes.

10 Q What role at the time of
11 this e-mail did Cushman & Wakefield have
12 with respect to Union Station?

13 A They had no official role.
14 They had reached out to us to lobby for
15 us for their loan sale department.

16 Q So at the time of this
17 e-mail on September 9th, 2021, Rexmark
18 had not retained Cushman & Wakefield; is
19 that correct?

20 A I don't believe so. I
21 believe we engaged them in October or
22 November of 2021.

23 Q At this point in time, were
24 you considering --

25 A I could be wrong. I'm

1 MICHAEL REBIBO

2 sorry. We may have had discussions with
3 them. I don't believe they were formally
4 engaged. Certainly had discussions with
5 them.

6 Q Well, at this time, you told
7 Cushman & Wakefield you had an interest
8 in possibly marketing them?

9 A Yes. There was --
10 certainly, the loan had been in default
11 for over a year and a half, almost a year
12 and a half at that time. There was no
13 resolution on the horizon. It was one of
14 the things we were considering.

15 MR. MARK: It's 12:30. So
16 this might be a good time to break
17 for lunch.

18 THE VIDEOGRAPHER: This will
19 end Media Unit 2, going off the
20 record at 12:30.

21 (A lunch recess was taken.)

22 THE VIDEOGRAPHER: We're
23 back on the record at 1:21. This
24 will begin Media Unit 3.

25 MR. MARK: I'm going to ask

MICHAEL REBIBO

the reporter to mark as Exhibit 17,
an e-mail and attachment, dated
November 3, 2021, with the Bates
numbers KTB2196 through 2202.

(The above-referred-to
document was marked as Defendant's
Exhibit 17 for identification, as of
this date.)

Q Mr. Rebibo, can you take a
look at what we've marked as Exhibit 17
and tell us if you can identify it?

A Yes. I'm familiar with the
document.

Q Now, this is a letter
from -- well, the attachment is a letter
from Mayer Brown, dated November 3, 2021,
to Wells Fargo, BlackRock and Green Loan
Services; is that correct?

A That's correct.

Q And at the time of this
letter, Mayer Brown was your counsel;
correct?

A Yes. That's correct.

Q And this letter was written

1 MICHAEL REBIBO

2 on your behalf; is that correct?

3 A Yes. That's correct.

4 Q Did you provide the
5 information that's contained in this
6 letter to Mayer Brown?

7 A Yes.

8 Q And to the best of your
9 knowledge, is the information contained
10 in this letter true and correct?

11 A Yes.

12 Q What was the purpose of
13 sending this letter at this point?

14 A The background of the letter
15 is that SL Green had taken over as
16 special servicer for the loan. They had
17 been in active litigation with your
18 client on a different high-profile deal
19 in New York, a different high-profile
20 property in New York.

21 And it was our belief that
22 given their -- the nature of their
23 company, which is they're a New York
24 landlord that primarily invests and
25 operates real estate in New York, they're

MICHAEL REBIBO

not really a national company, that they had sought out and gotten involved in this transaction to potentially have an ax to grind with your client and that we would become potentially collateral damage.

So that was the nature of the letter, is we felt there was a breach under the intercreditor by the senior lender and the mezzanine lender. And we were putting them on notice because they had only come into the transaction in early November or late October of 2021.

Q And I think you testified earlier, but just to confirm, SL Green replaced Wells Fargo as a special servicer?

A That's correct, yes.

Q So let us turn to page 2 of the letter and specifically to the paragraph that begins, "As the senior lender's aware."

You see that?

A Yes.

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MICHAEL REBIBO

Q I've asked you in general.

More specific about this paragraph, is this paragraph based on information you provided to Mayer Brown?

A Generally. The dates are slightly off. I mean they entered into the agreement in late 2020, early 2021. But, yes, generally, the contents of this paragraph are accurate.

Q You're anticipating my next question which is, the information contained in this paragraph, is it true and correct to the best of your knowledge?

A The borrower entered into the definitive contract in December of 2020. And I don't know -- I have not seen a copy of that contract. But I believe it became effective in early 2021 when the deposit was funded. So I was just commenting on the date. The rest of the -- the rest of the information in the paragraph looks to be true and correct to the best of my knowledge.

1 MICHAEL REBIBO

2 Q Let's turn to the next page.

3 I'm going to direct your
4 attention to the second full paragraph
5 that begins, "While senior lender was
6 ignoring the borrower's JV consent
7 request."

8 You see that?

9 A Yes.

10 Q Can you read that paragraph?
11 You don't have to read it out loud. But
12 just read it and tell me if everything in
13 that paragraph is true and correct to the
14 best of your knowledge.

15 MR. SCHARF: David, there
16 are facts in here. There are
17 opinions in here. Are you confining
18 your question to the facts as opposed
19 to the opinions?

20 MR. MARK: I'm asking about
21 the facts contained in this
22 paragraph.

23 MR. SCHARF: Okay.

24 A I've read the paragraph.

25 Can you repeat the question?

1 MICHAEL REBIBO

2 Q Are the facts contained in
3 this paragraph true and correct to the
4 best of your knowledge?

5 A A lot of it is opinion. But
6 the facts -- the \$15 million, the letter
7 referenced -- the e-mail referenced on
8 April 21st, that's a fact. Could you be
9 more specific?

10 Q Sure. Let me read the
11 following sentence to you. It begins
12 five lines down.

13 It says, "As requested by
14 BlackRock and in response to pressure by
15 Mr. Mesard for the mezzanine lender to
16 initiate foreclosure on the mezzanine
17 loan, the mezzanine lender submitted to
18 special servicer and BlackRock, updated
19 foreclosure proposals."

20 Do you see that?

21 A Yes.

22 Q Is that sentence true and
23 correct?

24 A It's an opinion. Yes. It's
25 true and correct. There's a portion of

1 MICHAEL REBIBO

2 it that's opinion-related, but yes.

3 Q What part of it is
4 opinion-related?

5 A Well, in terms of they were
6 requesting proposals, that's accurate. I
7 should say the majority of it, if not all
8 of it, is factually -- factually correct.
9 I'm sorry.

10 Q Well, is there any part of
11 it that's not factually correct?

12 A Dissecting it. But it's all
13 correct, yes. In my opinion, they were
14 pressuring us; in my opinion, they were
15 pressuring us to submit a proposal.
16 That's the opinion part. And we had
17 submitted non-proposals. That's the
18 factual part.

19 Q It was your perception that
20 you were being pressured; is that
21 correct?

22 A Yes. That was my
23 perception. Certainly, we had never
24 submitted any proposals before that
25 period of time.

1 MICHAEL REBIBO

2 Q Let me ask you to look
3 further up the page. There's a carryover
4 paragraph at the very top of this page.
5 You see that?

6 A Yes.

7 Q And the last sentence of
8 that, I'll just read it, "The senior
9 lender's failure to meaningfully and in
10 good faith engage with the borrower and
11 work towards providing the necessary
12 consents to the JV transaction caused
13 irreparable harm to the senior and
14 mezzanine loans."

15 Do you agree with that
16 statement?

17 A That's an opinion. It's
18 not -- that's my opinion.

19 MR. MARK: I'm going to ask
20 the reporter to mark as Exhibit 18,
21 an e-mail chain that has on the first
22 page at the top, an e-mail, dated
23 November 25th, 2021, and it bears the
24 Bates numbers KTB2298 through 2312.

25 (The above-referred-to

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MICHAEL REBIBO

document was marked as Defendant's Exhibit 18 for identification, as of this date.)

Q Are you able to identify Exhibit 18?

A Yes.

Q Let me ask you to look at the e-mail from you that begins at the very bottom of page 2 which is dated Sunday, November 21st, 2021. And it's to folks at Mayer Brown and at KTB. You see that?

A Yes.

Q Was the purpose of this e-mail to provide an update regarding the status of Union Station?

A Yes.

Q Take a look at the e-mail and just tell me whether to the best of your knowledge, that e-mail is true and complete and correct as of that date.

A Yes.

Q Now, at the beginning of the e-mail, you report on efforts to have a

1 MICHAEL REBIBO

2 meeting or a conversation with Fried
3 Frank. You see that?

4 A Yes.

5 Q And Fried Frank was
6 representing SL Green; correct?

7 A Yes.

8 Q What was the problem in
9 getting in touch with Fried Frank and SL
10 Green?

11 A They were not really
12 interested with communicating with us at
13 the time.

14 Q You're saying in your view,
15 SL Green was not interested in
16 communicating with you; is that correct?

17 A In my view, SL Green was not
18 interested in communicating with us at
19 the time because they had an agenda. And
20 they didn't express any interest in
21 communicating with us.

22 Q You said they had an agenda.
23 Is that a reference to what
24 you testified previously about their
25 other disputes with Ashkenazy?

1 MICHAEL REBIBO

2 A Yes.

3 Q Now, in the e-mail, you say
4 you have said they're not willing to
5 meet, unless you execute their form of
6 prenegotiation letter. You see that?

7 A Yes.

8 Q What was the issue as you
9 understood it with regard to the
10 prenegotiation letter?

11 A There was a provision in
12 there that we were waiving all claims,
13 past and future, to the senior lender.
14 And we were not comfortable at that time
15 with waiving claims because we felt that
16 the senior lender had breached some of
17 the covenants in our intercreditor
18 agreement.

19 Q Did there come a time when
20 you became more comfortable with waiving
21 those claims?

22 A I don't know if more
23 comfortable is the right way to describe
24 it. But there was a time where we
25 elected to sign the prenegotiation letter

1 MICHAEL REBIBO

2 because we wanted to commence discussions
3 with them and try and find out if there
4 was a resolution.

5 Q And the reason you agreed to
6 do that because you became convinced that
7 if you do not sign the prenegotiation
8 letter, you would not be able to have
9 those discussions?

10 A Correct.

11 Q In the next paragraph, there
12 is a discussion of Cushman & Wakefield
13 loan sale. Do you see that?

14 A Yes.

15 Q I asked you previously about
16 Cushman & Wakefield, and you were not
17 sure at what point you retained them?

18 A Correct.

19 Q Does looking at this e-mail
20 refresh your recollection as to when
21 Rexmark retained Cushman & Wakefield?

22 A No, it does not.

23 Q As of November 21, 2021, had
24 you retained Cushman & Wakefield?

25 A Yes.

1 MICHAEL REBIBO

2 Q But you don't recall exactly
3 when; is that correct?

4 A Correct.

5 Q Do you know how long before
6 November 21st that took place?

7 A That I officially retained
8 them? I don't recall if I officially
9 retained them in October, November, even
10 prior to that. I don't recall.

11 Q When you retained them, what
12 did you retain them to do?

13 A To market the mezzanine loan
14 for Su and to -- in November of 2021, we
15 engaged them to run the UCC process.

16 Q And by the UCC process, you
17 meant the foreclosure process?

18 A Yes.

19 Q Going down to the bottom of
20 that page, you see there's a No. 2, and
21 then it says, "Preparing a capital call
22 with investors, assume 50 million for the
23 moment."

24 Do you see that?

25 A Yes.

1 MICHAEL REBIBO

2 Q What does that refer to?

3 A A capital call with the
4 investors and assuming 50 million.

5 Q Well, under the relevant
6 agreements, were investors required to
7 respond to a capital call or was it just
8 voluntary?

9 A Voluntary.

10 Q And you go on to say, "We
11 will need these funds, whether we make a
12 deal with the senior, or refinance them
13 with another lender at a lower amount."

14 You see that?

15 A Yes.

16 Q Can you explain how you came
17 up with that \$50 million number?

18 A I was evaluating various
19 scenarios. And given the amount that was
20 owed for the existing loan in one
21 scenario, was working with the existing
22 lender to reinstate the loan, bring it
23 current and put out reserves. And I just
24 estimated a number conservatively.

25 In a different scenario

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where we would refinance with another lender, I estimated that I would need to -- need those funds potentially to -- also for reserves or to de-leverage my senior loan, things of that nature.

Q Now, did such a capital call, in fact, take place?

A For 50 million, no. I think it was 380 million, one took place, much larger.

Q So if I understand what you're saying correctly, the investors put up all the money necessary to buy out the senior loan?

A That's correct.

MR. MARK: I'm going to ask the reporter to mark as Exhibit 19, an e-mail and attachment in which the top e-mail is dated December 24th, 2021, and the Bates range is KTB4152 through 4162.

(The above-referred-to document was marked as Defendant's Exhibit 19 for identification, as of

MICHAEL REBIBO

this date.)

Q Can you identify Exhibit 19?

A Yes.

Q Let me ask you about the second e-mail on the first page. It's from someone named Robert Verrone, if I'm pronouncing it correctly, to you.

Who is Robert Verrone?

A He is an advisor/consultant who was acting on behalf of SL Green.

Q What was his role?

A He was acting as their advisor and middleman, I guess, between the mezzanine lender and the special because we were not talking directly to each other earlier on. And he has a history or has done business with both parties.

Q So it was like a friendly mediator?

A I wouldn't call it a friendly -- certainly, he's more friendly than SL Green. But he was technically their advisor. But I've

MICHAEL REBIBO

known him for many years and done business with him. So we had -- I don't recall. He was a representative for the mezz lender and SL Green. I don't recall if we engaged him, if they engaged them. But he has a relationship with both parties. And they were taking his phone calls.

So I forget who engaged him, if it was us or them. It may have been us, even. But he is someone that's done numerous transactions with them. And I've known him as well.

Q Now, at this time, I'm talking about December 23 when this e-mail was written, were you seeking an adjournment of the mortgage foreclosure?

A We were trying to get an extension of the mortgage foreclosure to either pursue various options.

Q Now, at this time, had you reached an agreement with the mortgage lender and the amount of the par purchase price?

1 MICHAEL REBIBO

2 A That's not the way it works.
3 There's no agreement on the amount of the
4 par purchase price. It sort of is what
5 it is. It's a fixed amount. There's a
6 formula in calculation. We weren't
7 negotiating the par purchase price.

8 Q I'm not suggesting you were
9 negotiating.

10 But was there at some point
11 a dispute as to what that amount should
12 be?

13 A I believe there was a
14 disagreement as to the calculation at
15 some point. But that's not what's going
16 on in this e-mail.

17 Q What's going on in this
18 e-mail is a discussion of terms upon
19 which you would get an adjournment of the
20 mortgage foreclosure?

21 A Correct.

22 Q Now, just so it's clear,
23 under the intercreditor agreement, you
24 had a right to purchase the senior loan
25 at par at this point?

1 MICHAEL REBIBO

2 A Correct. At all points up
3 until the day of a foreclosure, I have
4 the right to purchase it.

5 Q And --

6 A Once it's in default, that
7 is.

8 Q And so the intercreditor
9 agreement contains provisions how you
10 would calculate that par purchase price;
11 correct?

12 A Correct.

13 MR. MARK: Let's mark as
14 Exhibit 20, an e-mail, dated
15 December 20th, 2021, with an
16 attachment, also dated December 20th,
17 2021, with the Bates range being
18 KTB4200 through 4204.

19 (The above-referred-to
20 document was marked as Defendant's
21 Exhibit 20 for identification, as of
22 this date.)

23 Q Can you identify Exhibit 20?

24 A Yes.

25 Q What is it?

1 MICHAEL REBIBO

2 A It's me in my capacity as
3 agent for the mezzanine lender,
4 exercising my rights under the
5 intercreditor to purchase the senior
6 mortgage.

7 Q And that's what you did by
8 this letter, dated December 20th, 2021?

9 A Yes.

10 Q Why did you choose to
11 exercise that right?

12 A Because the foreclosure was
13 scheduled for January 6th. I had ten
14 business days, if I recall. I had to
15 give ten business days notice to purchase
16 the senior loan. I couldn't do it on a
17 day's notice. And if I didn't exercise
18 it by that date, I would have missed the
19 deadline to commence the foreclosure
20 because it was Christmas and New Years.
21 So my counsel advised me not to wait.

22 MR. SCHARF: I'd caution you
23 not to disclose communications with
24 counsel.

25 THE WITNESS: Okay.

1 MICHAEL REBIBO

2 MR. SCHARF: I'll claw back
3 that answer.

4 MR. MARK: Take that under
5 advisement.

6 I'm going to ask the
7 reporter to mark as Exhibit 21, an
8 e-mail, dated January 13th, 2022,
9 with an attachment, and the Bates
10 range is KTB3864, 3867. And since
11 the attachment was produced in
12 native, it's not actually Bates
13 numbered.

14 (The above-referred-to
15 document was marked as Defendant's
16 Exhibit 21 for identification, as of
17 this date.)

18 Q Before we discuss this
19 exhibit, just to have it in the record,
20 following your notice to exercise your
21 purchase option, you, in fact, did
22 exercise that option; correct?

23 A Yes.

24 Q And you exercised it.
25 Do you recall what date you

1 MICHAEL REBIBO

2 exercised it?

3 A That I exercised the
4 purchase option?

5 Q Yes.

6 A I believe it was
7 January 20th or on or around
8 January 20th, whatever the date was. I'm
9 sorry. December 20th.

10 Q Sorry.

11 But then you actually did
12 purchase the senior note?

13 A Yes. I purchased the senior
14 note on January 5th, 2021.

15 Q So let's turn to this
16 exhibit.

17 The e-mail at the top from
18 you to Yongsoo Park, you say, "We need to
19 start preparing the action plan for Kyobo
20 and investors."

21 You see that?

22 A Yes.

23 Q Just so it's clear, who are
24 Kyobo and investors?

25 A There are several investors

1 MICHAEL REBIBO

2 as I mentioned earlier in the investment
3 vehicle. And we were preparing reporting
4 for them.

5 Q I think in earlier
6 discussion, you had mentioned that the
7 investors were, in fact, passive
8 investors. Do you recall that testimony?

9 A Correct.

10 Q Did that continue to be true
11 after you had made a capital call, and
12 they invested the additional funds?

13 A That's correct. But we
14 still report to them.

15 Q But you didn't need their
16 approval for anything; is that correct?

17 A No. This is reporting. We
18 have ongoing reporting to investors,
19 regardless of whether they have any
20 decision making power or not.

21 Q What was the action plan
22 that's referred to here?

23 A What we were going to do
24 once we close the loan.

25 Q So what were the

MICHAEL REBIBO

alternatives that you were considering?

A Obviously working with the borrower. We had canceled the foreclosure that was scheduled for January 6th. I believe we had met with the borrower on or around this week to try and discuss a path towards a resolution. We were still marketing the loan for sale. We were exploring a variety of options. But certainly, working with the borrower was one of them.

Q With whom from the borrower did you have this meeting?

A Meaning with the borrower in January of 2021?

Q 2022.

A Ben Ashkenazy, Michael Alpert, Dan Levy. Joe Press may have been there.

Q And what did you discuss?

A We discussed restructuring the loan, potentially, if there was a possibility of resurrecting the deal with

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MICHAEL REBIBO

PIF. I don't recall exactly, the detail.
But in general, potential solutions,
joint venture. That was certainly
discussed.

Q What would the joint venture
look like?

A A joint venture typically
involves two parties having a common
equity interest. We discussed a number
of scenarios but a joint venture, which
would involve us having a common equity
interest, in addition to our loan.

Q So you were looking for an
equity contribution from Ashkenazy; is
that correct?

A I don't think I was looking
for it. I think I had the opportunity to
foreclose. And I was trying to work in a
collaborative matter with the borrower
and find the compromise that worked best
for all parties. I certainly wasn't
looking for anything else; trying to find
a solution.

Q Did you make any specific

1 MICHAEL REBIBO

2 proposals at this meeting?

3 A Not in January. They came
4 later on.

5 Q When did you make specific
6 proposals?

7 A I don't recall if it was
8 February or March or April. No. It was
9 not April. I believe it was February and
10 March 2021. We were exchanging proposals
11 between Ashkenazy and Rexmark.

12 MR. SCHARF: You mean
13 February of 2022?

14 THE WITNESS: 2022. I'm
15 sorry. I keep saying 2021. I'm
16 getting my years mixed up.

17 A In 2022, in February and
18 March, we had exchanged proposals with
19 Ashkenazy. I believe we submitted the
20 first proposal. They countered and sent
21 us a markup. And we countered back.
22 There was definitely an exchange of
23 proposals throughout that first quarter
24 of 2022.

25 Q What was the nature of these

1 MICHAEL REBIBO

2 proposals?

3 A A resolution that didn't
4 involve a foreclosure.

5 Q Can you be more specific?

6 A No. I don't think I can. I
7 mean it's a resolution that didn't
8 involve a foreclosure.

9 Q Well, did it include
10 Ashkenazy putting up additional funds?

11 A We may have requested that
12 at the time. But I don't think that
13 was -- it may have been a request. But I
14 don't recall what the proposals were,
15 other than we were taking an equity
16 interest. He was retaining an equity
17 interest. I believe our loans were still
18 staying in place. But I don't recall if
19 he was putting up any money. Certainly,
20 that would have been a wishful or a
21 hopeful expectation, given the preceding
22 two years.

23 Q Below the e-mail we were
24 discussing is an e-mail from Chris
25 McGlone at Cushman & Wakefield. Do you

1 MICHAEL REBIBO

2 see that?

3 A Cushman & Wakefield, yes. I
4 see it.

5 Q Following your acquisition
6 of the senior loan, did you expand the
7 role of Cushman & Wakefield?

8 A I don't recall.

9 Q Did the role change after
10 you acquired this loan?

11 A Yeah. They were no
12 longer -- later on, we engaged them for
13 the UCC process, or we had engaged them
14 previously and then canceled them and
15 reengaged them later on for the UCC
16 process.

17 But I don't believe their
18 role changed, no. They were only engaged
19 to market the loan for sale and for any
20 activity regarding the foreclosure
21 process under the mezz loan.

22 Q Did you engage them in
23 connection with -- strike that.

24 If you look at the e-mail
25 from Mr. McGlone, he refers to a summary

1 MICHAEL REBIBO

2 target investor list. Do you see that?

3 A Yes.

4 Q Is that something you had
5 requested from him?

6 A That's something they
7 provide when they're marketing a loan.
8 They provide an update on parties which
9 had executed non-disclosures and parties
10 that they had calls with, people that
11 have expressed interest in purchasing a
12 loan. So it's a reporting.

13 Q So just to make sure I
14 understand, you're saying even after you
15 acquire the senior loan, you're still
16 trying to market the mezzanine loan?

17 A After we had acquired the
18 senior loan, we had canceled the
19 foreclosure. But we had not stopped
20 marketing the loan for sale.

21 Q Were you still marketing the
22 mezzanine loan or also marketing the
23 senior loan at the time?

24 A They were only engaged to
25 market the mezzanine loan.

1 MICHAEL REBIBO

2 Q So the target investor
3 listed you -- they had sent you concern
4 marketing the mezzanine loan?

5 A That's all they were
6 marketing. They were not marketing the
7 senior loan. Our role had changed as the
8 lender. We had owned both loans at that
9 point in time. But we did not sign a
10 separate agreement with them for the
11 senior loan or anything like that.

12 Q If you look at the
13 spreadsheet attachment -- if you take a
14 look, the heading is "Union Station
15 Advisory Assignment."

16 Do you see that?

17 A Yes.

18 Q What was the scope of their
19 advisory assignment?

20 A I don't know that it's an
21 advisory assignment. If you look at the
22 agreement, they were exchanged to market
23 the loan for sale.

24 Q At some point, was Cushman &
25 Wakefield's role with respect to Union

1 MICHAEL REBIBO

2 Station expanded beyond marketing the
3 mezzanine loan?

4 MR. SCHARF: Objection to
5 form. You can answer.

6 A Post foreclosure, their role
7 had expanded later on in the year. But
8 prior to the foreclosure, no. I can't
9 think of how their role changed.

10 Q At some point, did you ask
11 them to become involved in leasing
12 activities?

13 A No. They had pitched their
14 services to us. But we had not
15 engaged -- we had not executed an
16 agreement with them for a leasing
17 activity of any kind.

18 So there was no formal --
19 they had made a presentation to us. But,
20 no, we had not executed or done any
21 agreement or formal arrangement for
22 leasing activity.

23 Q Was there an informal
24 arrangement?

25 A No. They had previously

MICHAEL REBIBO

been the leasing agent for the property under Ashkenazy and were familiar with the property and were giving us -- had given us market information. There was an instance where they were communicating with us about, you know, prospective tenants in the market and just giving us market information and had communications. But there was certainly no formal exchange, normal arrangement between Rexmark and Cushman & Wakefield for leasing Union Station.

Q Did they arrange meetings between you and potential tenants?

A Potential tenants, no. I think that's one of the statements in Mr. Press's declaration. But that's false.

MR. MARK: I'm going to ask the reporter to mark as Defendant's Exhibit 22, an e-mail, dated September 10th, 2021, with an attachment, and the Bates range is KTB4532, 4556.

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(The above-referred-to document was marked as Defendant's Exhibit 22 for identification, as of this date.)

Q Mr. Rebibo, you mentioned a couple of times, Cushman & Wakefield pitching services.

Is this pitch book that I just gave you what you're referring to?

MR. SCHARF: Objection to form. You can answer after you reviewed the document.

A This is something that they provided early on in May of 2021 when they were pitching us to do a loan sale. This team that's referenced, yeah, is the portfolio advisory services group and national loan. It says "dedicated loan sale team." They also mention high street retail and office leasing. They're talking about their expanded platform. But it's concentrated on loan sales as you could see here with various assets concentrated in the regional

MICHAEL REBIBO

section. So this is not a leasing --
90 percent of this book is about loan
sales. It's a loan sale pitch book.

Q It also mentions that
they're a leasing specialist too?

A They are a leasing
specialist. That's accurate. But that's
not what they're pitching us on. And
this is all about the mezz loan value
range, property values, valuation
methodology. None of it revolves around
cash flows or -- there's no tenant-based
information or rent information here.
There's nothing. They're just talking
about -- they're talking about their
various capacities to their company. But
this is a loan sale presentation.
Representing it as anything else would be
false.

MR. MARK: I'm going to ask
the reporter to mark as Exhibit 23,
an e-mail, dated January 14th, 2022,
with various attachments with the
Bates range KTB3822 through 3847.

MICHAEL REBIBO

(The above-referred-to document was marked as Defendant's Exhibit 23 for identification, as of this date.)

Q Mr. Rebibo, I'm showing you Exhibit 23. I could tell you I'm not going to ask you about any of the attachments. I'm just going to focus on the e-mail itself.

Do you recognize this e-mail?

A Yes.

Q So this is an e-mail, dated January 14th, 2022, from you to folks at KTB and including Mr. Park.

And is the purpose of this e-mail to ask KTB to approve various agreements relating to Union Station?

A That's part of it. Part of it is also to educate them on the strategy going forward for the asset from a leasing standpoint.

Q And what was the strategy you were trying to educate them on?

1 MICHAEL REBIBO

2 MR. SCHARF: Objection to
3 form. You can answer.

4 A What the e-mail says.

5 Q So let me just read the
6 first sentence of the e-mail.

7 It says, "The general plan
8 for the moment is to sign as many
9 agreements to bring retailers into the
10 station on short-term deals which can all
11 be terminated."

12 Was that the strategy?

13 A That was the short-term
14 strategy at that point in time, yes.

15 Q So the strategy was you
16 wanted to have as much of the space as
17 occupied as you could get occupied?

18 A No. You're saying the
19 strategy was I. The strategy was the
20 asset needed to have as much space open
21 and operating as possible. This e-mail
22 refers to getting consent for agreements
23 which were proposed by your client.
24 These were not being done independent of
25 your client. They were being done in

1 MICHAEL REBIBO

2 collaboration with your client.

3 Q I'm not --

4 A You said I, or you said you.
5 So just clarifying what your statement
6 was.

7 Q Fair point.

8 So the general plan that
9 you're referring to is a joint plan
10 between Rexmark and the borrower?

11 MR. SCHARF: Objection to
12 form.

13 A Yes. The joint plan
14 between -- for the asset between
15 Ashkenazy and Rexmark was to ensure that
16 deals were made, so that the vacancies --
17 as few vacancies as possible remain and
18 tenants were open and operating.

19 Q With whom at Ashkenazy did
20 you discuss this joint plan?

21 A Joe Press.

22 Q And you mentioned short-term
23 deals that can all be terminated.

24 Was that part of the plan,
25 that all the deals be short-term deals?

1 MICHAEL REBIBO

2 A Not all the deals, but the
3 majority of the deals, yes. We felt like
4 the market was obviously not great at
5 that point in time. And we weren't going
6 to commit long-term to -- we didn't think
7 it was in the best interest of the asset
8 to commit to low rents on a long-term
9 basis in hopes that COVID would be over
10 soon.

11 Q And it's your understanding
12 that Ashkenazy agreed with the strategy
13 of just signing short-term deals?

14 MR. SCHARF: Objection to
15 form. You can answer.

16 A That's not my understanding.
17 That was -- your client made these
18 requests to us: Lee's Flower Shop, ALWD,
19 Chop't. These are not deals I'm
20 negotiating with tenants directly. Your
21 client negotiated these deals and sought
22 my consent.

23 Q I'm talking about the
24 general plan. I just want to make sure
25 we're clear that the general plan you're

1 MICHAEL REBIBO

2 describing here was a joint plan between
3 you and the borrower.

4 MR. SCHARF: Objection to
5 form. You can answer.

6 A Conceptually, that was a
7 plan that the borrower and I discussed
8 that we were in support of. We didn't
9 always agree on everything on every
10 specific case. But conceptually, that
11 was something we had discussed and had an
12 aligned interest on, making sure stores
13 were open.

14 Q The e-mail we just talked
15 about at the very top of the e-mail, you
16 seem to be addressing someone named
17 Jihyung.

18 Do you see that?

19 A Jihyung.

20 Q Who is Jihyung?

21 A He was Seog's replacement.
22 He worked under Mr. Eum. His last name
23 is Lim, L-I-M.

24 MR. MARK: Let's mark as
25 Exhibit 24, an e-mail, dated

1 MICHAEL REBIBO

2 January 18th, 2022, which bears the
3 Bates numbers KTB1760 and 1761.

4 (The above-referred-to
5 document was marked as Defendant's
6 Exhibit 24 for identification, as of
7 this date.)

8 Q Can you identify Exhibit 24?

9 A Yes.

10 Q What is it?

11 A It's an e-mail exchange
12 between myself and Cushman & Wakefield
13 about a trip that was taking place on
14 January 20th.

15 Q And what was the purpose of
16 the trip?

17 A To meet with prospective
18 joint venture partners or acquirers of
19 the mezzanine loan.

20 Q So looking at the e-mail to
21 you from Sean Hayes, what is the second
22 e-mail, can you identify who Sean Hayes
23 was and what his role was?

24 A He worked for -- he works --
25 I don't know if he's still there. But he

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MICHAEL REBIBO

worked for the loan sales team at Cushman
& Wakefield.

Q And looking at the agenda
below that, it says, "Meet at Union
Station/initial property tour from 9 a.m.
to 11 a.m."

What was the purpose of the
initial property tour?

A Just to do a tour of the
property. We toured the property every
time we were in town.

Q Who was with you? Did this
property tour actually take place?

A Yes. I believe so.

Q Did all the meetings
described in the agenda take place as
scheduled?

A I believe so, yeah. I think
all these meetings took place. I'd have
to double check. But I believe all these
meetings took place, yes.

Q Who participated in these --
in the property tour?

A Myself, people from the

MICHAEL REBIBO

building, Ashkenazy, I believe, yeah;
Cushman & Wakefield, building employees,
Ashkenazy, I believe. And I don't recall
if somebody from KTB was there. But they
may or may not have been at this meeting.
I believe people from Korea were there
that day. I believe there were people
from KTB present on that day.

Q Just to clarify when you say
Ashkenazy, are you referring to Ashkenazy
individually?

A No. I don't know the last
time he's been to his own property. No.
I was referring to Mr. Press.

Q Now, the next item on the
agenda is C&W Leasing/Intro to C&W
Property Management.

Can you expand on that item?

A Sure. They were pitching us
on their leasing and property management
services.

Q The next item on the agenda
is Museum Tenant.

A Yes. I see that.

1 MICHAEL REBIBO

2 Q Who was that?

3 A That was a non-for-profit
4 museum that was interested in acquiring a
5 portion of the mezzanine loan. They were
6 interested in doing some sort of a
7 structured JV with us.

8 Q Do you have any
9 understanding as to why a non-for-profit
10 museum would be interested in acquiring
11 an interest in a loan?

12 A Yes. Their interest was
13 that -- their interest was to eventually
14 take ownership, like some other
15 prospective buyers. People had an
16 interest in acquiring the mezzanine loan
17 to foreclose and take ownership of the
18 leasehold.

19 Q Just so I understand it, did
20 you have an understanding of what their
21 interest was because they wanted space at
22 Union Station?

23 A They were interested in
24 owning and occupying a portion of the
25 station.

1 MICHAEL REBIBO

2 Q In the meeting you had with
3 them, did you discuss the possibility of
4 them leasing spaces at Union Station?

5 A No. Their interest was
6 long-term, not like a five-year lease or
7 anything like that.

8 Q And turning the page, it
9 talks about luncheon meetings at the
10 Monocle Restaurant.

11 Do you see that?

12 A Yes.

13 Q So you adjourned from the
14 station to the restaurant?

15 A Yes.

16 Q And then the three bullet
17 points indicates three different
18 meetings. You see that?

19 A Yes.

20 Q So one of them is
21 Artemis/EDENS/Sage Hospitality.

22 You see that?

23 A Yes.

24 Q Who are they?

25 A They're all reputable real

1 MICHAEL REBIBO

2 estate companies, investors, owners,
3 operators, lenders in certain cases.

4 Q So just to clarify, the
5 first bullet point now refers to three
6 different entities?

7 A It's three different
8 companies. They were looking at
9 acquiring the mezzanine loan in a joint
10 venture.

11 Q And the next item is Acadia
12 Realty.

13 A That's a public REIT that
14 lends and owns real estate throughout the
15 United States.

16 Q And Argent, who is that?

17 A Argent is a privately-owned
18 company based in New York that also
19 acquires debt, owns and operates real
20 estate.

21 Q And all these three meetings
22 concern potential acquisition of the
23 loan?

24 A Yes.

25 Q And specifically, the

1 MICHAEL REBIBO

2 mezzanine loan?

3 A Yes.

4 Q And then the final item is
5 Madison Marquette.

6 Am I pronouncing that
7 correctly?

8 A Yes.

9 Q Who are they?

10 A They're a well-known real
11 estate company based in Washington, D.C.,
12 I believe.

13 MR. MARK: We've been going
14 about an hour. We could take a short
15 break.

16 THE VIDEOGRAPHER: This will
17 end Media Unit 3, going off the
18 record at 2:33.

19 (A short recess was taken.)

20 THE VIDEOGRAPHER: We're
21 back on the record at 2:48. This
22 will begin Media Unit 4.

23 Q Mr. Rebibo, going back to
24 Exhibit 24, which is the top of your
25 pile.

1 MICHAEL REBIBO

2 A That's a 4. Okay.

3 Q The one we were just talking
4 about before the break --

5 A Yes.

6 Q -- I had asked you who had
7 participated in the property tour.

8 A Yes.

9 Q Turning to the next item on
10 the agenda, the C&W leasing meeting, who
11 participated in that meeting?

12 A Members of Cushman &
13 Wakefield and Rexmark, and I can't recall
14 if KTB was present or not. And that's
15 it, I believe. Joe Press was not at that
16 meeting. This took place in the
17 conference room in JLL's office at Union
18 Station. He provided the conference
19 room.

20 Q So you anticipated my next
21 question which is, where did the meeting
22 take place.

23 So turning to the next one,
24 museum tenant meeting, who participated
25 in that meeting?

1 MICHAEL REBIBO

2 A I believe it was the CEO or
3 one member of the museum. I don't recall
4 if their broker or advisor was present.

5 Q Was Cushman & Wakefield
6 there?

7 A Yes. I believe so, yes.

8 Q I assume you were there?

9 A Yes.

10 Q And do you recall if anybody
11 from KTB was there?

12 A Possibly, but I don't
13 recall.

14 Q And where did that meeting
15 take place?

16 A At the property as well.

17 Q Let me ask you about the
18 leasing meeting.

19 Did Cushman & Wakefield
20 bring a pitch book with them?

21 A Yes. I believe they did.

22 Q Do you have a copy of that
23 pitch book?

24 A Not on me.

25 Q I didn't ask you if you have

1 MICHAEL REBIBO

2 it in your pocket.

3 But did you retain a copy of
4 that pitch book?

5 A I don't recall if I retained
6 a copy of the pitch book. But I believe
7 they did bring -- it was my first time
8 meeting them. And I believe they brought
9 a copy of a pitch book. I don't recall
10 if I retained it.

11 Q Do you remember the name who
12 was described as the museum tenant here,
13 the name of the entity?

14 A I don't.

15 Q Again, turning to the
16 meetings that are described in the top of
17 page 2 of this document, in addition to
18 the entity that's mentioned in each --
19 for each of these bullet points, were the
20 participants yourself and Cushman &
21 Wakefield?

22 A And KTB, I believe, yes.

23 Q Did Joe Press attend any of
24 these meetings?

25 A No.

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MR. MARK: I'm going to ask
the reporter to mark as Exhibit 25,
an e-mail chain in which the top
e-mail is dated January 24th, 2022.
And it has the Bates range
AMTRAKSDNY821 through 840.

(The above-referred-to
document was marked as Defendant's
Exhibit 25 for identification, as of
this date.)

Q Can you take a look at
Exhibit 25 and identify it, if you can?

A Yes, I can. It's an e-mail
exchange between myself and my counsel
with Amtrak and their counsel.

Q Before looking at the
specific e-mails, do you have any
recollection of having communications
with Amtrak in January of 2022 after you
acquired the senior note?

A Yes.

Q What were the subject of
those communications?

A They had expressed interest

1 MICHAEL REBIBO

2 in acquiring both loans. They requested
3 a meeting with us after we had acquired
4 the senior loan. And that was the nature
5 of the discussions.

6 Q Did the discussion include
7 discussions of a confidentiality
8 agreement?

9 A Yes.

10 Q What do you recall about
11 those discussions?

12 A We never signed them.

13 Q Do you recall any specific
14 reasons why you didn't sign them?

15 A Yes. We could not agree on
16 some of the language in the
17 confidentiality agreement regarding
18 disclosing confidential information.
19 They were reluctant to sign anything that
20 precluded them from using the information
21 against us or Ashkenazy or USI.

22 Q Now, aside from e-mails, did
23 you have communications in person or by
24 telephone with Amtrak in January of 2022?

25 A Yes.

1 MICHAEL REBIBO

2 Q With whom did you have such
3 discussions?

4 A Deborah Rochkind, the
5 associate general counsel.

6 Q Were those discussions in
7 person or by telephone?

8 A Both.

9 Q Anybody else at Amtrak?

10 A I can't recall. But I don't
11 believe so.

12 Q Do you recall having a call
13 with Dennis Newman?

14 A I may have had a call with
15 him. I don't recall.

16 Q How many in-person meetings
17 did you have with Amtrak?

18 A Only one.

19 Q Where did that take place?

20 A At their offices.

21 Q Who attended that meeting?

22 A Ms. Rochkind, Mr. MacGyver
23 and a third person. I don't recall who
24 it was.

25 Q Did anybody accompany you

1 MICHAEL REBIBO

2 for that meeting?

3 A I believe there was one
4 person from -- I believe someone from KTB
5 was attending. Jaesang may have been
6 there, someone from Cushman & Wakefield.
7 I don't recall who else was at the
8 meeting. I believe it was KTB and
9 Cushman & Wakefield.

10 Q What was discussed at this
11 in-person meeting?

12 A They had expressed interest
13 in buying the loans. They had stated
14 that they had approval from their board
15 to show up at the foreclosure auction,
16 that they were prepared to show up at the
17 foreclosure auction. And they had an
18 interest in acquiring the loans,
19 ultimately with the intention of
20 potentially owning the property or owning
21 the leasehold, I should say.

22 Q Was there any discussion
23 about the cost, what they were prepared
24 to pay for that?

25 A No. They would not

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MICHAEL REBIBO

disclose -- they did not disclose what numbers they had authority for or anything like that. We had asked for proof of approvals or proof of funds. They were not able to provide either.

Q How did you respond to them?

MR. SCHARF: Objection to form. You can answer.

A In the meeting?

Q Yes.

A I advised them that we had just received an appraisal, what the property was valued at and that the property was in contract previously at a significant number for the valuation and that we were open to discussing selling the loan with them.

Q Just to follow up on the discussion of the confidentiality agreement, what specifically did Amtrak tell you were their concerns about your proposed confidentiality agreement?

A Well, it says it right here in the e-mail.

1 MICHAEL REBIBO

2 Q Can you tell me where you're
3 referring to?

4 A They were opposed to signing
5 a document which included any standard
6 language about the information being
7 provided was just for a specific purpose.
8 And we were selling them a loan,
9 potentially. And we said that like in
10 any confidentiality agreement, that we're
11 disclosing information to you. But it's
12 only for this specific purpose, that it
13 can't be used for an alternative purpose.
14 And the information can't be used against
15 us or USI. So they were not comfortable
16 signing that. You could see the reasons
17 here in this e-mail.

18 Q And which e-mail are you
19 pointing to?

20 A If you see my e-mail
21 response on January 24th, 2022 at
22 11:43 a.m., I said this isn't something
23 we are flexible on. Every
24 confidentiality agreement Rexmark and
25 probably Amtrak I would guess has ever

MICHAEL REBIBO

signed has language that information cannot be adversely used against the disclosing party.

Given the situation here where USI may be an adverse party to us and have a claim against us for lender liability issues, we aren't comfortable with waiving a fundamental issue.

Whatever we discuss or disclose has to stay confidential and not be shared or used against USI in any way which could directly or indirectly hurt the lenders.

Q You wrote here against USI. Did you mean Rexmark?

A No. At that point, I wasn't USI. At that point, Ashkenazy was USI. This is in January of 2022. Ashkenazy was still --

Q I get that.

Were you concerned if the information was used against USI?

A They were a tenant of the property, sub-tenant. I was interested in selling them a loan, not giving them

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MICHAEL REBIBO

information that they could use to harm my borrower or myself in any other way. I was interested in protecting USI and myself.

Q Now, the concern, if you turn to page 2 of this e-mail, I'm looking at the e-mail from Deborah Rochkind on Friday, January 21, 2022 at 4:37 p.m.

She says, "We deal with USI frequently. And this is a risk for Amtrak."

Did you understand what her concern was?

A No.

Q Well, I mean, she says, "We have no intent of using the confidential information or negotiations, but things happen, and unintentionally, something might be disclosed."

You see that?

A I see it, yes.

Q So she is saying that since we deal with USI frequently, it'll be

1 MICHAEL REBIBO

2 very hard for them to split their brains
3 apart and not use information you give
4 them in their discussions with USI. You
5 understand that?

6 MR. SCHARF: Objection to
7 form. That's not what it says.

8 MR. MARK: The witness can
9 answer.

10 Q You don't agree with my
11 interpretation of what you're saying?

12 A I can't state definitively
13 what she's saying here. Probably, the
14 only thing I could state definitively is
15 my impression at the time they were being
16 disingenuous. And based on -- in
17 hindsight, all the information I have
18 today, she was clearly lying.

19 Q What information are you
20 referring to that convinces you she was
21 lying?

22 A Well, they were planning an
23 eminent domain action. I had no
24 knowledge of it at the time.

25 Q I take it prior to receiving

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MICHAEL REBIBO

the eminent domain papers, it didn't occur to you that Amtrak might not do that?

A We had absolutely no knowledge. It was never discussed, not in an e-mail or phone call; completely by surprise.

MR. MARK: Let us mark as Exhibit 26, an e-mail and attachment. The first e-mail is dated January 31, 2022. And the Bates range is KTB3609 through 3623.

(The above-referred-to document was marked as Defendant's Exhibit 26 for identification, as of this date.)

Q Can you identify this exhibit?

A Give me a second. Just going through it. There's a lot in here. But it's an e-mail exchange from January of 2022 between myself, Joe Press and Dan Levy from Ashkenazy with various requests for information as it related to

1 MICHAEL REBIBO

2 operations, financials and leasing.

3 Q So let me ask you to take a
4 look at your e-mail at the top of the
5 second page of this document. You see
6 that?

7 A Second page? Yes.

8 Q The e-mail says, "Thanks,
9 Joe. We really need the marketing
10 materials in rendering I spoke to you
11 about."

12 You see that?

13 A Yes.

14 Q What was your need for
15 marketing materials?

16 A I believe -- and I'm going
17 off of memory -- this was related to --
18 this is in late January after we had met
19 with Joe and Cushman & Wakefield. This
20 may have been related to prospective
21 information that we were trying to put
22 out in the market. I don't recall, to be
23 honest. It may have been related for
24 leasing activity that Joe and I were
25 working on. I don't know. This chain

1 MICHAEL REBIBO

2 talks about wiring instructions,
3 invoices, all kinds of things.

4 At that time, we had just
5 transitioned into becoming the senior
6 lender. We were taking a more -- we were
7 involved more in the financial
8 responsibilities for the asset because we
9 were in control of the lockbox. And we
10 were getting information from the
11 borrower. So lockbox information, real
12 estate taxes and insurance information,
13 ground rent, insurance taxes, CMRF
14 information is listed in this e-mail.
15 It's basically asking for all types of
16 information as it related to the property
17 and the marketing materials and
18 renderings. I'm going off of memory.
19 But I think it was related to prospective
20 leasing information.

21 Q And there in the top e-mail,
22 you say, "Thanks, Joe. What about the
23 East Hall Lounge?"

24 Do you know what that refers
25 to?

1 MICHAEL REBIBO

2 A The very top of which page?

3 Q The first page, top of the
4 first page.

5 A I believe this was referring
6 to a prospective tenant for the East Hall
7 Lounge.

8 Q Did you have a particular
9 tenant in mind?

10 MR. SCHARF: Objection to
11 form.

12 Q Was there a prospective
13 tenant that you wish to send this
14 material to?

15 MR. SCHARF: Objection to
16 form.

17 A I believe there was a
18 prospective tenant that we had discussed
19 collectively with Ashkenazy that was
20 looking at taking a substantial space.
21 But we were not communicating directly
22 with that tenant.

23 Q Who was communicating with
24 that tenant?

25 A I can't recall the exact

MICHAEL REBIBO

specifics. But from my recollection, there was a tenant -- I believe it was a food hall that was out in the marketplace in DC. That's the only thing that comes to mind because of the East Hall location. The East Hall Lounge had been vacant for a number of years. It was being used for event space infrequently.

Q Was that a tenant that Cushman & Wakefield brought to your attention?

A Possibly, yes.

MR. MARK: Let's mark as Exhibit 27, an e-mail exchange, and the top e-mail is dated February 20th, 2022. The Bates range is KTB3370 to 3372.

(The above-referred-to document was marked as Defendant's Exhibit 27 for identification, as of this date.)

Q Can you identify Exhibit 27?

A It's an e-mail exchange between myself and Joe Press regarding a

1 MICHAEL REBIBO

2 prospective tenant at Union Station.

3 Q Now, in the e-mail at the
4 very top, you say, "Joe, can you please
5 confirm what the prior rent was for each
6 space, information of the tenant? Let's
7 discuss this week. But I am not inclined
8 to agree to commit to a ten-year lease
9 right now given the situation with the
10 property."

11 You see that?

12 A Yes.

13 Q Why were you not inclined to
14 agree to commit to a ten-year lease?

15 A The rent for these two
16 prospective tenants combined was less
17 than the rent, if I recall, just for the
18 one tenant. So if you see the e-mail
19 below, he's proposing two tenants for
20 200,000 and 200,000 each in Year 1. So
21 \$400,000 total to replace the Einstein
22 Bagel space and the America Space. And I
23 believe the pre-existing -- the rent for
24 the Einstein Bagel space was over 700,000
25 or 600,000, some number.

MICHAEL REBIBO

So the rent was significantly less than what even one of the spaces had leased for. Essentially, it was for a fraction of whatever the prior rents were. And he wanted to commit to it for a ten-year lease. And I didn't feel like it was a prudent business decision at that point in time because things were at the bottom. Things were not good in terms of the market at the time.

Q So when you referred to given the situation of the property, were you referring to the fact that you thought this was the bottom of the market?

A I felt that committing at a low rent for a long-term period of time -- and it wasn't just a low rent, slightly lower, it was a fraction of what they were collecting previously -- was not in the best interest of my investment. I had sole discretion, not reasonable discretion. The loan was in

1 MICHAEL REBIBO

2 default, and it was my decision.

3 MR. MARK: Let's mark as
4 Exhibit 28, an e-mail from Michael
5 Rebibo, dated February 22nd, 2022,
6 with the Bates numbers KTB3266 and
7 3267.

8 (The above-referred-to
9 document was marked as Defendant's
10 Exhibit 28 for identification, as of
11 this date.)

12 Q Can you identify Exhibit 28?

13 A Yes. It's an e-mail
14 correspondence between myself and
15 Jaesang, giving him an update on the
16 various progress at Union Station since
17 acquiring the senior loan.

18 Q The heading at the top of
19 the e-mail says "Agenda."

20 Were the listings following
21 that a proposed agenda for a meeting or a
22 call?

23 A It would appear so.

24 Q Now, under the heading
25 "Progress Since Closing," the first item

1 MICHAEL REBIBO

2 is "Resolution of SLG."

3 Can you explain what that
4 refers to?

5 A We had a dispute with them
6 after acquiring the senior loan, whereby
7 they were not releasing reserves that
8 were part of the acquisition of the
9 senior loan.

10 Q Was that dispute resolved?

11 A It was resolved, yes.

12 Q How was it resolved?

13 A We settled with them.

14 Q Item 6 on the list of
15 progress since closing is, "Review of all
16 operation to transition responsibility."

17 What does that refer to?

18 A That refers to what I spoke
19 about earlier in terms of transitioning
20 responsibility now that we went from
21 becoming the mezzanine lender to the
22 senior lender. So our responsibilities
23 expanded as it related to administration
24 of the loan.

25 So, for example, we were

MICHAEL REBIBO

responsible for paying the ground rent on the property, paying taxes, paying various expenses that the senior lender previously was responsible for. But now we were taking over that role. So hence, the e-mail exchange beforehand asking Joe Press for information regarding real estate taxes, CMRF, things like that.

Q Under the heading "Marketing," the first item is "Meeting/Zoom with JV Partners."

What does that refer to?

A It's talking about marketing of the mezzanine loan.

Q Just to clarify, the mezzanine loan, not the senior loan?

A We had not engaged Cushman formally to market the senior loan. People were aware that we had bought the senior loan and were interested in acquiring both loans. But we had only engaged Cushman to market the mezzanine loan.

Q Was anybody interested in

1 MICHAEL REBIBO

2 just buying the mezz loan from you and
3 not the senior loan at the same time?

4 A Yes. There were parties
5 because we didn't have the senior loan
6 until January of 2022. And we were
7 marketing the mezzanine loan in 2021.

8 Q I'm talking about after you
9 acquired the senior loan.

10 Did you have discussion with
11 anybody where you would just sell them,
12 the junior loan, and keep the senior
13 loan?

14 A Yes.

15 Q Now, under the heading
16 "Debt," there's a reference to
17 "meetings/calls with lenders."

18 What does that refer to?

19 A That refers to leveraging
20 our position.

21 Q Can you explain that?

22 A We had acquired the senior
23 loan. The senior loan was still
24 outstanding and is still outstanding.
25 And we acquired it all cash. We had not

1 MICHAEL REBIBO

2 leveraged our position. There was no
3 note-on-note financing. So we were
4 exploring that option.

5 Q Have you, in fact,
6 refinanced the debt?

7 A No.

8 Q And then under the heading
9 "Operation/Asset Management," Item No. 1
10 is "Meeting with Tenants/Negotiating
11 Amendments with Existing Tenants."

12 Do you see that?

13 A Yes.

14 Q Did you participate in
15 meetings with tenants?

16 A At this point, other than
17 Amtrak, I can't think of a specific
18 tenant. I may have participated with
19 Ashkenazy in some meetings. I don't
20 know. I can't recall a specific one.

21 Q Did you participate in any
22 meetings with tenants without Ashkenazy
23 present?

24 A Other than the one with
25 Amtrak, which was in the capacity as a

1 MICHAEL REBIBO

2 mezz loan buyer, no.

3 Q Under No. 4, there's a
4 reference to leasing space. Do you see
5 that?

6 A Yes.

7 Q What does that refer to?

8 A It refers to leasing space.

9 Q What did you propose
10 discussing regarding leasing space?

11 A It's just the discussion
12 point about leasing space. We were
13 working along with the borrower very
14 closely at this point because we had a
15 significant investment in the asset.

16 Q And then under the heading
17 "Workout with Ashkenazy/Foreclosure,"
18 there's an item, "Restructuring Term
19 Sheet."

20 Does that refer to --

21 A Correct.

22 Q What does that refer to?

23 A As I said, we had been
24 working with the borrower after acquiring
25 the mortgage loan in January. We had

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MICHAEL REBIBO

been working in good faith with the
borrower to try and find a resolution
that didn't involve a foreclosure. So we
had been exchanging term sheets with the
borrower.

Q And No. 2 underneath that is
"CFIUS Filing."

What does that refer to?

A CFIUS -- it's a committee
of -- it's for foreign investors to
invest in a property that's ultimately
owned by the government. So there was a
question about whether we needed to file
or not which is one of the discussion
points.

MR. MARK: I'm marking as
Exhibit 29, an e-mail, dated April
14th, 2021, with the Bates numbers
BLKUSI233, 234.

(The above-referred-to
document was marked as Defendant's
Exhibit 29 for identification, as of
this date.)

Q Mr. Rebibo, can you identify

1 MICHAEL REBIBO

2 Exhibit 29?

3 A It's an e-mail between --
4 it's from 2021. It's an e-mail between
5 myself and -- internally between myself
6 and Langston and then me forwarding the
7 e-mail to Michael Mesard from BlackRock.

8 Q And the first e-mail
9 contains a preliminary list of potential
10 operators; correct?

11 A Correct.

12 Q Now, we had an earlier
13 discussion where you had, if I remember
14 correctly, mentioned to me that you
15 thought at one point, Ashkenazy was on a
16 list of potential operators?

17 A Correct.

18 Q And you believe you had
19 conveyed that list to BlackRock?

20 A Yes.

21 Q We reviewed our files. It's
22 the only other list of potential
23 operators that we were able to find that
24 was conveyed to BlackRock.

25 And you said Ashkenazy's not

1 MICHAEL REBIBO

2 on this list; correct?

3 A I do see Ashkenazy's not on
4 the list.

5 Q You mentioned you believe
6 there is a list that contains Ashkenazy?

7 A Yes.

8 Q We don't have it. So I'd
9 ask you to produce it.

10 A Okay. I think you're trying
11 to establish that we weren't -- you're
12 trying to establish that we weren't
13 working with the borrower. And I think
14 if you look at all these documents here,
15 you could see that we had worked in good
16 faith with the borrower and certainly
17 tried to support them for two and a half
18 years. But we'll give you the list
19 anyways.

20 Q You told me there is such a
21 list. We can't find it. So I'm asking
22 for it.

23 A I will get it for you. I'm
24 sorry if you don't have access to it. So
25 I'll make sure we get that to you.

1 MICHAEL REBIBO

2 Q Now, in April of 2022, as
3 we've already mentioned, Amtrak commenced
4 a condemnation proceeding; correct?

5 A Yes.

6 Q What impact did the
7 commencement of the condemnation
8 proceeding have on your Union Station
9 strategy?

10 A Significant.

11 Q Could you be a little bit
12 more specific?

13 MR. SCHARF: Objection to
14 form. You can answer.

15 A Amtrak had filed a
16 condemnation and a quick take and had
17 taken title technically of the leasehold
18 by law. And so all the efforts we were
19 previously working on. But at that
20 point, at the time of the -- at the time
21 that the quick take was filed,
22 discussions with the borrower had been
23 broken down. And we had notified them I
24 believe that we were commencing a
25 foreclosure action.

1 MICHAEL REBIBO

2 Q Let me make sure I
3 understand correctly.

4 You're saying the
5 discussions of the borrower had broken
6 down prior to the commencement of the
7 condemnation action?

8 A Yes.

9 Q When you say broken down,
10 could you be more specific as to what
11 happened or did not happen that caused
12 you to believe the discussions had broken
13 down?

14 A We had exchanged several
15 term sheets with the borrower. After I
16 think the second or third term, Ben
17 Ashkenazy had asked for a meeting at his
18 office where he had essentially said that
19 after coming back from a month-long
20 vacation, he wasn't happy with the term
21 sheet. He had reviewed it, or he hadn't
22 seen it before. It was being exchanged
23 with Daniel Levy and that he wasn't
24 satisfied about the terms of the term
25 sheet. And there was -- we had notified

1 MICHAEL REBIBO

2 them that we were going to commence a
3 foreclosure action in April of 2022 prior
4 to the eminent domain being filed.

5 Q Did Mr. Ashkenazy give you
6 any particular reason as to why he wasn't
7 satisfied with the terms?

8 A I don't think he liked the
9 idea of giving up full control of the
10 asset. And he owned 95 percent of the
11 asset personally since acquiring it. I
12 don't think he was mentally prepared to
13 share control. And someone in his
14 position has difficulty giving up
15 control.

16 MR. MARK: Let's take a
17 short break. I just want to see if I
18 have anything else to ask.

19 THE VIDEOGRAPHER: This will
20 end Media Unit 4, going off the
21 record at 3:31.

22 (A short recess was taken.)

23 THE VIDEOGRAPHER: We're
24 back on the record at 3:43. This
25 will begin Media Unit 5.

1 MICHAEL REBIBO

2 MR. MARK: I have no further
3 questions at this time.

4 MR. SCHARF: I have a few.

5 EXAMINATION BY

6 MR. SCHARF:

7 Q Mr. Rebibo, if you could
8 take out what's been marked as
9 Defendant's Exhibit 24, please, it's the
10 January 18th, 2022 e-mail exchange that
11 you had with Sean Hayes. I'd like to
12 focus on the 11 a.m. to 11:30 a.m.
13 meeting. You see that on the agenda?

14 A Yes.

15 Q After that meeting
16 concluded, did the people from leasing
17 and property management of Cushman &
18 Wakefield continue with you in any way,
19 shape or form the rest of the day?

20 A No.

21 Q Now, focusing on the people
22 that you met afterwards -- Museum Tenant,
23 Artemis, EDENS, Sage Hospitality, Acadia
24 and Argent and Madison Marquette -- did
25 any of those prospective note purchasers

MICHAEL REBIBO

end up touring the property?

A Yes. They had all toured prior to these meetings. They had been toured by Joe Press and other members of Ashkenazy.

Q So I guess you anticipated my next question, which was, did anybody from Ashkenazy play a role in those property tours?

(Continued on the following page.)

1
2 A Yes. Joe Press and
3 Ashkenazy, Dan Levy were all aware of
4 these tours. We coordinated through them
5 for the property tours from the
6 prospective note buyers.

7 MR. SCHARF: I have no
8 further questions.

9 MR. MARK: No more
10 questions.

11 THE VIDEOGRAPHER: This will
12 end Media Unit 5 and conclude the
13 deposition of Michael Rebibo. We're
14 going off the record at 3:46,
15 9/21/23.

16 (Time noted: 3:46 p.m.)
17
18

MICHAEL REBIBO

19
20
21 Subscribed and sworn to
22 before me on this _____ day
23 of _____, 2023.
24

25 NOTARY PUBLIC

I N D E X

E X A M I N A T I O N

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C E R T I F I C A T I O N

I, ANTHONY GIARRO, a Shorthand
Reporter and a Notary Public, do hereby
certify that the foregoing witness, MICHAEL
REBIBO, was duly sworn on the date
indicated, and that the foregoing, to the
best of my ability, is a true and accurate
transcription of my stenographic notes.

I further certify that I am not
employed by nor related to any party to
this action.



ANTHONY GIARRO

ERRATA SHEET

VERITEXT/NEW YORK REPORTING, LLC

1-800-727-6396

330 Old Country Road 7 Times Square

Mineola, New York 11501 New York, New

York 10036

NAME OF CASE: Daol Rexmark, et al. versus
Union Station

DATE OF DEPOSITION: September 21, 2023

NAME OF DEPONENT: Michael Rebibo

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MICHAEL REBIBO

SUBSCRIBED AND SWORN TO BEFORE ME

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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